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# ATTENTION

The following documents appearing in FBI files have been reviewed under the provisions of The Freedom of Information Act (FOIA) (Title 5, United States Code, Section 552); Privacy Act of 1974 (PA) (Title 5, United States Code, Section 552a); and/or Litigation.

FOIA/PA

Litigation

Executive Order Applied

Requester: \_\_\_\_\_

Subject: \_\_\_\_\_

Computer or Case Identification Number: \_\_\_\_\_

Title of Case: \_\_\_\_\_ Section \_\_\_\_\_

\* File \_\_\_\_\_

Serials Reviewed: \_\_\_\_\_

Release Location: \*File \_\_\_\_\_ Section \_\_\_\_\_

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File Number: 62-HQ-80950 Section 102

Serial(s) Reviewed: \_\_\_\_\_

FOIPA Requester: \_\_\_\_\_

FOIPA Subject: CIA

FOIPA Computer Number: 368697-2

File Number: \_\_\_\_\_ Section \_\_\_\_\_

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**DATE:** \_\_\_\_\_

**ATTENTION**

**LAST SERIAL:** 6337

**DO NOT REMOVE FROM FILE**

3/11/85

TO: Central Intelligence Agency  
T-1 NIESO Central Mailroom  
Washington, D.C. 20505  
STOP 64

FEDERAL GOVERNMENT

FROM: SSA [redacted]  
FBI Headquarters  
Room 4282  
J. E. Hoover Building  
Washington, D.C. 20535

b7C

SUBJECT: [redacted]

Please be advised of the correct mailing address for documents arriving at FBI Headquarters.

b3

The address remains the same with the exception of the room number which should be changed to Room 4282.

Enclosed are three receipts for [redacted] received 2/25/85.

Enclosures (3)

2 - [redacted]  
1 - [redacted]

LGM/ash (6)

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HEREIN IS UNCLASSIFIED  
DATE 8/21/06 BY 60322UC/EP/DEJ/cwc

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sealed envelop

MAILED 9  
MAR 11 1985

FBI

DE-258 62-80750-6304

W-269

MAR 15 1985

- Exec AD Inv. \_\_\_\_\_
- Exec AD Adm. \_\_\_\_\_
- Exec AD LES \_\_\_\_\_
- Asst. Dir.:
- Adm. Servs. \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Intell. \_\_\_\_\_
- Laboratory \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Plan. & Insp. \_\_\_\_\_
- Rec. Mgnt. \_\_\_\_\_
- Tech. Servs. \_\_\_\_\_
- Training \_\_\_\_\_
- Public Affs. Off. \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director's Sec'y \_\_\_\_\_

MAIL ROOM

~~SECRET~~

March 20, 1985

~~FEDERAL GOVERNMENT~~ BY LIAISON

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HEREIN IS UNCLASSIFIED EXCEPT  
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(S) [Redacted]

b1  
b3

DELIVERED BY LIAISON  
DATE 3/26/85 JRC

It was a pleasure for us to host your luncheon a few weeks ago and to take that opportunity to recognize your retirement. I want to add my personal congratulations and wish you the best in the future.

I believe the years we worked together were productive ones for all concerned, and I will always be appreciative for the support and assistance you provided the Bureau and myself. You should take great pride and satisfaction in your many years of dedicated service and your accomplishments. The relationship between our organization has been strengthened by your efforts.

On behalf of your friends and associates in the Intelligence Division, I extend congratulations and best wishes for a long and healthy retirement.

Sincerely,

DATE: 2/31/06  
CLASSIFIED BY 60322UC/LP/deg/csc  
DECLASSIFY ON: 25X3.3( C) 8/31/2031

Edward J. O'Malley  
Assistant Director  
Intelligence Division

1 - Mr. E. J. O'Malley  
1 - [Redacted]

b7C

- Exec AD Adm. \_\_\_\_\_
- Exec AD Inv. \_\_\_\_\_
- Exec AD LES \_\_\_\_\_
- Asst. Dir.:
- Adm. Servs. \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Intell. \_\_\_\_\_
- Lab. \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Off. Cong. & Public Affs. \_\_\_\_\_
- Rec. Mgnt. \_\_\_\_\_
- Tech. Servs. \_\_\_\_\_
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- Director's Sec'y \_\_\_\_\_

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1985

DE-133  
V-142  
62-80750-6313

17 MAR 28 1985

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AIRTEL

3/12/85

Director, FBI

SACs, Albany	Indianapolis	Omaha
Albuquerque	Jackson	Philadelphia
Alexandria	Jacksonville	Phoenix
Atlanta	Kansas City	Pittsburgh
Baltimore	Knoxville	Portland
Birmingham	Las Vegas	Richmond
Boston	Little Rock	Sacramento
Buffalo	Los Angeles	St. Louis
Butte	Louisville	Salt Lake City
Charlotte	Memphis	San Antonio
Chicago	Miami	San Diego
Cincinnati	Milwaukee	San Francisco
Cleveland	Minneapolis	San Juan
Columbia	Mobile	Savannah
Dallas	Newark	Seattle
Denver	New Haven	Springfield
Detroit	New Orleans	Tampa
El Paso	New York City	Washington Field
Honolulu	Norfolk	
Houston	Oklahoma City	

NATIONAL HUMINT COLLECTION PLAN  
TERRORISM - INTERNATIONAL  
TERRORISM MATTER

MAILED 4

Enclosed for receiving offices is one copy each of the National Humint Collection Plan for Terrorism, which was approved by the Director of Central Intelligence in December 1984.

Agents working international terrorism matters should be familiar with the contents of this plan, but they are requested to strictly observe dissemination restrictions imposed by the originator.

Enclosure

Exec AD Adm. 1 - Mr. Klein  
 Exec AD Inv. 1 - Each Unit Chief -  
 Exec AD LES 1 - Mr. Cornick

Asst. Dir.:

Adm. Servs. \_\_\_\_\_  
 Crim. Inv. \_\_\_\_\_  
 Ident. \_\_\_\_\_  
 Insp. \_\_\_\_\_  
 Intell. \_\_\_\_\_  
 Lab. \_\_\_\_\_  
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 Off. Cong. & Public Affs. \_\_\_\_\_  
 Rec. Mgnt. \_\_\_\_\_  
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62-80750-6314

17 MAR 13 1985

ENC. MAILED  
 with AIRTEL

~~SECRET~~

*By Hand*

Date

*SMW*

Deliver to: Emil Moschella  
7240 JEH

March 12, 1985 FEDERAL GOVERNMENT

Subject: Draft Central Intelligence Agency Authorization for FY 1986

NOTE:

[Redacted]

b1  
b3

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WHERE SHOWN OTHERWISE.

Referred to:

Advisory Units:

OLA

OLG, CIVIL, CRM, FBI, INS, OIRA

COMPLETED BY 3/15/85

Reporting Unit please prepare report addressed to:

- Budget
- H. Jud.
- S. Jud.
- H.I. & F.C.
- S. Comm.
- H. G.O.
- S. G.O.

Advisory Unit please prepare memorandum to:

- Reporting Unit, copy to [Redacted] Rm. 1139, Main Justice Bldg.
- Attn. [Redacted] Rm. 1139, Main Justice Bldg.

DATE: 8/31/86  
CLASSIFIED BY: 60320/efp/beg/ew  
REASON: 1.4  
DECLASSIFICATION: 8/31/2031

Advisory Units please respond in time to permit Reporting Unit to comply with deadline of:

- 30 days
- 15 days
- other

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Department File No:

Return Attachments

Miscellaneous Information:

[Redacted]

V-57

DE-371

62-80750-6315X

APR 26 1985

"ENCLOSURE ATTACHED"

ENCLOSURE

~~SECRET~~

*[Handwritten signature]*

APR 12 1985

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DATE *5/2/06* BY *60322/Avd/gle/pjw/c*



62-80750-6315X

ENCLOSURE



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

**SPECIAL**

March 11, 1985

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer-  
Office of Personnel Management  
Department of Justice  
National Security Council  
Department of Defense  
General Services Administration  
Department of State  
Department of the Treasury  
Department of Energy  
Equal Employment Opportunity Commission  
Department of Transportation

SUBJECT:

Draft Central Intelligence Agency Authorization  
Act for Fiscal Year 1986.

ALL FBI INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 5/4/06 BY 60322AWK/EPB/cwc

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than MONDAY, MARCH 18, 1985.

Questions should be referred to   
the legislative analyst in this office.

*Ronald K. Peterson*  
RONALD K. PETERSON FOR  
Assistant Director for  
Legislative Reference

b7C

Enclosures

cc:

211



A BILL

To authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1986".

TITLE I - INTELLIGENCE ACTIVITIES

Authorization of Appropriations

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1986 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency;
- (2) The Intelligence Community Staff;
- (3) The Department of Defense;
- (4) The Defense Intelligence Agency;
- (5) The National Security Agency;
- (6) The Department of the Army, the Department of the Navy, and the Department of the Air Force;
- (7) The Department of State;
- (8) The Department of the Treasury;
- (9) The Department of Energy;
- (10) The Federal Bureau of Investigation; and
- (11) The Drug Enforcement Administration.

Classified Schedule of Authorizations

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1986, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany ( ) of the Ninety-Ninth Congress. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of

Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule within the Executive Branch.

Congressional Notification of Expenditures  
in Excess of Program Authorizations

SEC. 103. During fiscal year 1986, funds may not be made available for any intelligence or intelligence-related activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that, in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence or intelligence-related activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence or intelligence-related activity for which funds were requested has been denied by Congress.

Personnel Ceiling Adjustments

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for the fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II - INTELLIGENCE COMMUNITY STAFF

Authorization of Appropriations

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1986 the sum of \_\_\_\_\_.

Authorization of Personnel End Strength

SEC. 202. The Intelligence Community Staff is authorized \_\_\_\_\_ full-time personnel as of September 30, 1986. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1986, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1986, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

Intelligence Community Staff Administered  
in Same Manner as Central Intelligence Agency

SEC. 203. During fiscal year 1986, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403n) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III - CENTRAL INTELLIGENCE AGENCY  
RETIREMENT AND DISABILITY SYSTEM

Authorization of Appropriations

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986 the sum of \_\_\_\_\_.

**TITLE IV - ADMINISTRATIVE PROVISIONS RELATED  
TO INTELLIGENCE AGENCIES**

**Compensation of Director and Deputy  
Director of Central Intelligence**

SEC. 401. (a) Section 5312 of Title 5, United States Code, is amended by adding at the end thereof the following:

"( ) Director of Central Intelligence."

(b) Section 5313 of Title 5, United States Code, is amended by inserting "Deputy" before "Director of Central Intelligence."

(c) Section 5314 of Title 5, United States Code, is amended by striking out "Deputy Director of Central Intelligence."

**Interlocutory Appeal Authority**

SEC. 402. The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding after Section 102a the following new section:

"SEC. 102b. In any civil action, suit, or proceeding in which the United States or any officer, employee or agent thereof is a party, or in which the United States has an interest, an interlocutory appeal may be taken as of right from a decision of any court of the United States, or a judge thereof, on any evidentiary or discovery matters, or potentially dispositive motions, if the Director of Central Intelligence certifies that the decision will have an adverse impact upon the national security of the United States. In such cases, appeal may be taken upon application of the Attorney General to the appropriate courts of appeals, which shall have jurisdiction of appeals under this provision, except where direct review may be had in the Supreme Court. A stay of all proceedings shall be granted pending disposition of the appeals."

Retirement Benefits for Agency Employees Serving  
in Unhealthful Areas

SEC. 403. (a) Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "(a)" after "Sec. 251." and by adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant under this Act, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of Title 5 for such service."

~~(b) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end thereof the following new section:~~

"Extra Credit for Service at Unhealthful Posts

SEC. 16. The provisions of subsection 251 (b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) authorizing the Director of Central Intelligence to establish a list of unhealthful posts for which an extra retirement credit for service at such posts may be provided to an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System or in a new Government retirement system as defined in Section 203(a)(4) of the Federal Physicians Comparability Allowance Amendments of 1983."

Protection of Agency Activities

SEC. 404. (a) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end of Section 16 the following new section:

"SEC. 17. In its discretion, the Agency may, on the grounds of prior or current alcohol or drug abuse,

deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

(b) The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended:

"1) by redesignating section 2 as section 2(a) and

"2) by adding at the end thereof the following new subsection:

"b) The Secretary of Defense (or his designee for the purpose) may, in his discretion, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

#### TITLE V - SUPPORT FOR DEFENSE INTELLIGENCE COLLECTION ACTIVITIES

SEC. 501. Subtitle A of Title 10, United States Code, is amended by adding the following new chapter to Part I, relating to organization and general military powers, after chapter 18:

#### "CHAPTER 19 - SUPPORT FOR INTELLIGENCE

"Sec.

391. Purpose of this chapter.
392. Definition.
393. Authority to conduct commercial cover.
394. Authority to acquire logistic support, supplies, and services.
395. Oversight.

"SEC. 391. Purpose of this chapter.

The purpose of this chapter is to provide clear authority for the Secretary of Defense and the Secretaries of the Military Departments to conduct support activities

necessary for authorized and appropriately coordinated intelligence collection activities of the Department of Defense.

"SEC. 392.

a. "Intelligence collection activities" means the collection of foreign intelligence or counterintelligence information by intelligence components of the Department of Defense.

b. "Intelligence support activities" means those activities described in sections 393 and 394, below.

c. "Foreign intelligence" means information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

d. "Counterintelligence" means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassination conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

e. "Commercial cover" means a business entity that is established solely to conceal the role of an intelligence component of the Department of Defense as it performs intelligence collection activities.

"SEC. 393. Authority to conduct commercial cover.

a. "The Secretary of Defense and the Secretaries of the Military Departments, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation as appropriate, may establish and conduct commercial entities such as corporations, partnerships, sole proprietaries, and other business entities as commercial covers to support intelligence collection activities of the Department of Defense, as defined herein. Such commercial entities may only be established upon written certification that commercial cover is necessary to the conduct of authorized intelligence collection activities.

b. "The establishment and operation of commercial entities conducted pursuant to this section shall be

consistent with prevailing commercial practice. To this end laws applicable to federal appropriations, federal services management, federal property management, and Government corporations including but not limited to Title 5, sections 1301, 1341, 1342, 1343, 1344, 1348, 1517 of Title 31; and chapter 91 of Title 31 shall not apply where such application would be inconsistent with prevailing commercial practice or would otherwise compromise the commercial cover.

c. "Notwithstanding the provisions of sections 3302, 3322, and 3341 of Title 31 and section 648 of Title 18, the Secretary of Defense and the Secretaries of Military Departments, or their designees, are authorized to deposit, and withdraw funds appropriated for the Department of Defense used to conduct commercial cover and funds generated by the business entities authorized by this section, in banks or other financial institutions. The deposits of and funds generated by such business entities may be used to offset necessary and reasonable expenses incurred by such activities without regard to the provisions of section 3302 of title 31, U.S.C.

d. "Upon the liquidation, dissolution, sale, or other disposition of the assets of a business entity established and conducted under the provisions of this section, the funds from each disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Funds generated by such business entities that are required to maintain the entity's commercial cover may be deposited and withdrawn, in commercial accounts, but such funds may not be used to support intelligence collection activities. Funds generated by business entities not needed to maintain the entity's commercial cover shall be deposited, on a quarterly basis, in the Treasury of the United States as miscellaneous receipts.

"SEC. 394. Authority to acquire logistic support, supplies, and services.

a. "Subject to the availability of appropriations, the Secretary of Defense, and the Secretaries of the Military Departments may acquire any goods, services, property, buildings, facilities, space, insurance, licenses and any equipment necessary in order to establish or maintain a commercial cover.

b. "Acquisitions made under the provisions of this section are to be made utilizing procedures consistent with



prevailing commercial practice. To this end, laws applicable to federal acquisitions including but not limited to sections, 2207, 2276, 2301, 2304, 2306, 2307, 2392, 2393, 2313, 2360, 2381, 2384, 2631, 2662, 2672, 2675, 2676 of this Title, section 3324 of Title 31, section 34 of Title 40, and sections 22, 254(a), 254(c) and 255 of Title 41 shall not apply where such application would be inconsistent with prevailing commercial practice or would otherwise compromise the commercial cover.

**"SEC. 395. Oversight**

The Secretary of Defense shall establish a system to ensure oversight of and accountability for the intelligence support activities conducted pursuant to sections 393 and 394 of this Title.

**"SEC. 396. General Provisions**

a. ~~"The intelligence support activities authorized pursuant to sections 393 and 394 may only be conducted in accordance with regulations promulgated by the Secretary of Defense.~~

b. "The Secretary of Defense, Deputy Secretary of Defense, and Secretaries of the Military Departments shall ensure that elements of the Department of Defense that undertake intelligence support activities pursuant to this chapter conduct annual reviews of such support activities and shall ensure that the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate are kept fully and currently informed of such activities, as prescribed in section 413 of Title 50.

c. "Intelligence support activities authorized under this chapter shall be protected from unauthorized disclosure pursuant to 50 U.S.C. 403(d)(3).

d. "The table of chapters at the beginning of Subtitle A of such Title and at the beginning of Part I of such Subtitle are each amended by inserting after the item relating to chapter 18 the following new item:

"19. Support for Intelligence.....391".

**TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS**

**Immigration and Nationality Act Amendment**

SEC. 601. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

(2) A petition under this provision may be filed, without regard to the residence of the petitioner, in any district court of the United States. The court shall conduct proceedings under this subsection in a manner consistent with the protection of intelligence sources, methods and activities."

**TITLE VII - UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION**

**Unauthorized Disclosure Amendment**

SEC. 701. The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new subchapter:

**"SUBCHAPTER VII**

**Unauthorized Disclosure of Classified Information**

**§ 701. Unauthorized Disclosure of Classified Information**

- (a) Whoever, being or having been an officer or employee of the United States or a person having or having had authorized access to classified information, willfully discloses, or attempts to disclose, any classified information to a person

who is not an officer or employee of the United States and who does not have authorized access to classified information, shall be fined not more than \$25,000, or imprisoned not more than five years, or both.

(b) Whoever, being or having been an officer or employee of the United States or a person having had authorized access to classified information, willfully aids or abets the violation of subsection (a), shall be fined not more than \$25,000, or imprisoned not more than five years, or both.

(c) As used in this section --

(i) the term "classified information" means any information or material that has been determined by the United States Government pursuant to an Executive order, statute or regulation, to require protection against unauthorized disclosure for reasons of national security;

(ii) the term "disclose" or "discloses" means to communicate, furnish, deliver, transfer, impart, provide, publish, convey, or otherwise make available;

(iii) the term "authorized access" means having authority, right, or permission to receive classified information or material within the scope of authorized government activities or pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency who is empowered to classify information, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which governs the handling of classified information by the respective House of Congress.

(d) Nothing in this section shall be construed to establish criminal liability for disclosure of classified information in accordance with applicable law to:

(i) any court of the United States, or judge or justice thereof; or

- (ii) the Senate or House of Representatives, or any committee, subcommittee or joint committee thereof.
- (e) It is an affirmative defense to a prosecution under this section that:
- (i) before the defendant's disclosure, the information that provides the basis for prosecution under this section officially had been disclosed publicly; or
  - (ii) the defendant did not obtain the classified information that provides the basis for prosecution under this section as a result of his duties as an officer or employee of the United States, or as a result of authorized access to classified information; or
  - (iii) the defendant has submitted the information that provides the basis for prosecution under this section to a department or agency of the United States for prepublication review, whether under a contract which provides for such review or otherwise, or for declassification review pursuant to the provision of an Executive order, and (a) the United States informed defendant that it did not object to disclosure, or (b) the United States objected to such disclosure, or denied declassification, and such objection or denial was overruled in a final opinion or ruling of a court of the United States.
- (f) Prosecution under this section shall be barred unless, prior to the return of an indictment or the filing of any information, the Attorney General and the head of the department or agency responsible for the classified information jointly certify in writing that, at the time of the disclosure, the information constituted properly classified information. Such certification shall be conclusive as to the propriety of the classification except that, if a defendant demonstrated that the information that provides the basis for prosecution under this section was available from public sources

or makes a prima facie showing that the information did not meet the substantive criteria for classification under applicable law, the prosecution may proceed if the United States establishes that the information, at the time of the disclosure, was properly classified because the particular disclosure reasonably could be expected to damage the national security. The court, based upon submissions of defendant and the United States, shall determine whether the information was properly classified. Upon request of the United States, the court's determination of the issue shall be in camera, ex parte. Any determination by the court on the propriety of the classification shall be de novo and a matter of law, and shall be conclusive except as provided in subsection (g) below.

- (g) An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of the court with respect to the propriety of the classification of the information that provides the basis for prosecution under this section.
- (h) There is jurisdiction under this section over an offense committed outside the United States."

SEC. 702. The table of contents of Chapter 15 of Title 50, United States Code, is amended to include the following caption:

"427. Unauthorized Disclosure of Classified Information".

TITLE VIII - PERSONAL LIABILITY AMENDMENT TO THE  
NATIONAL SECURITY ACT OF 1947

Personal Liability Amendment

SEC. 801. The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end of subchapter VII the following new subchapter:

**"SUBCHAPTER VIII - Personal Liability of Intelligence  
Community Personnel**

**§ 801. Personal Liability**

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 of the United States Code for claims for injury or loss of property, or personal injury or death, resulting from the negligent or wrongful act or omission of any officer or employee of the Intelligence Community while acting within the scope of his office or employment shall hereafter be exclusive of any other civil action or proceeding, arising out of or relating to the same subject matter, against the officer or employee whose act or omission gave rise to the claim, or against the estate of such officer or employee.

(b) The United States shall be liable, to the extent that liability for such tort is recognized or provided by applicable Federal law, for claims for money damages sounding in tort arising under the Constitution of the United States resulting from an act or omission of any acting within the scope of his office or employment. Such claims shall be treated in the same manner as claims cognizable under section 1346(b) and 2672 of title 28 of the United States Code. The remedy against the United States provided by this subsection shall hereafter be exclusive of any other civil action or proceeding, arising out of or relating to the same subject matter, against any officer or employee whose act or omission gave rise to any such claims, or against the estate of the officer or employee. This remedy shall be deemed an equally effective substitute for any recovery against the officer or employee in his individual capacity directly under the Constitution. The United States shall not be liable for interest prior to judgment or for punitive damages.

(c) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) and (b) of this section (or the estate of such person) for any such claims. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or any attested true copy thereof to such person's immediate superior or to whomever was designated by the Federal agency, which employed the individual at the time of the alleged act or omission that gave rise to the action

or proceeding, to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of that Federal agency.

(d) Upon certification by the Attorney General that the defendant officer or employee was acting within the scope of his office or employment at the time of the incident out of which the action arose, any civil action or proceeding commenced in the United States district court shall be deemed an action against the United States under the provisions of title 28 of the United States Code and all references thereto, and the United States shall be substituted as the party defendant.

(e) Upon certification by the Attorney General that the defendant officer or employee was acting within the scope of his office or employment at the time of the incident out of which the action arose, any civil action or proceeding described in subsection (c) which is commenced in a State court shall be removed, without bond, at any time before trial, by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action shall be deemed an action brought against the United States under the provision of title 28 of the United States Code and all references thereto, and the United States shall be substituted as the party defendant. The certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

(f) In any civil action or proceeding brought under this section, the United States shall have available all defenses heretofore available to the officer or employee whose act or omission gave rise to the claim, and all defenses to which it would have been entitled if the action had originally been commenced against the United States under section 1346(b) and sections 2671 through 2680 of title 28 of the United States Code, except that section 2680(k) shall not apply to any cause of action covered by this section.

(g) The Attorney General may compromise or settle any claim asserted in any such civil action or proceeding in the manner provided in section 2677 or title 28 of the United States Code, and with the same effect."

SEC. 802. The table of contents of Chapter 15 of title 50, United States Code, is amended to include the following caption:

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"428. Personal Liability of Intelligence Community Personnel."

TITLE IX - GENERAL PROVISIONS

Restriction on Conduct of Intelligence Activities

SEC. 901. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

Increases in Employee Benefits Authorized by Law

SEC. 902. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

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**INTELLIGENCE AUTHORIZATION ACT FOR  
FISCAL YEAR 1986**

**SECTION-BY-SECTION ANALYSIS  
AND EXPLANATION**

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## TITLE I

### INTELLIGENCE ACTIVITIES

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 1986.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for fiscal year 1986 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 requires that no funds may be appropriated or otherwise made available through the exercise of transfer or reprogramming authority unless specifically authorized or accompanied by notification. It is understood that specifically authorized intelligence activities are those activities described in annual budget justification material as modified by the Congress. The notification requirement is not intended to apply to reprogrammings below agreed-to dollar thresholds, releases from authorized contingency funds, or to Economy Act transactions for specific activities otherwise authorized by law. Notification required under this provision is normally expected to be made at least fifteen days prior to completion of the funding transaction, but it is recognized that circumstances may occasionally require later notification.

Should questions arise as to the relationship between this section and section 501 of the National Security Act of 1947, it is expected that resolution will be guided by the principles of comity and mutual understanding set forth in the legislative history accompanying the statutory intelligence oversight provisions enacted in 1980.

Section 104 authorizes the Director of Central Intelligence in fiscal year 1986 to expand the personnel ceilings applicable to the components of the Intelligence Community under Sections 102 and 202 by an amount not to exceed 2 percent of the total of the ceilings applicable under these sections. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

## TITLE II

### INTELLIGENCE COMMUNITY STAFF

Section 201 authorizes appropriations in the amount of \$ \_\_\_\_\_ for the staffing and administration of the Intelligence Community Staff.

Section 202 provides details concerning the number and composition of Intelligence Community Staff personnel.

Subsection (a) authorizes \_\_\_\_\_ full-time personnel for the Intelligence Community Staff for fiscal year 1986, and provides that personnel of the Intelligence Community Staff may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (b) requires that detailed employees be selected so as to provide appropriate representation from the various departments and agencies engaged in intelligence and intelligence-related activities.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations.

Section 203 provides that the Director of Central Intelligence shall utilize existing statutory authority to manage the activities and to pay the personnel of the Intelligence Community Staff. This language reaffirms the statutory authority of the Director of Central Intelligence and clarifies the legal status of the Intelligence Community Staff. In the case of detailed personnel, it is understood that the authority of the Director of Central Intelligence to discharge personnel extends only to discharge from service at the Intelligence Community Staff and not from federal employment or military service.

## TITLE III

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 301 authorizes fiscal year 1986 appropriations in the amount of \$ \_\_\_\_\_ for the Central Intelligence Agency Retirement and Disability Fund.

#### TITLE IV

##### ADMINISTRATIVE PROVISIONS RELATED TO INTELLIGENCE AGENCIES

Section 401 adjusts the annual rates of basic pay for the positions of Director and Deputy Director of Central Intelligence. Section 5312 of Title 5, United States Code, currently lists fourteen (14) positions which have an annual rate of basic pay at Level I of the Executive Schedule. Subsection 401(a) would add the Director of Central Intelligence to the list. Section 5313 of Title 5, United States Code, sets forth those positions which have an annual rate of basic pay at Level II of the Executive Schedule. The Director of Central Intelligence is presently included in this listing. Subsection 401(b) would change the listed position of Director of Central Intelligence to Deputy Director of Central Intelligence. Given the addition of the Deputy Director of Central Intelligence to the Executive Schedule Level II position listed in Section 5313, it becomes necessary to amend Section 5314 of title 5, United States Code, to strike the Deputy Director of Central Intelligence from the positions listed as receiving an annual rate of basic pay at Level III of the Executive Schedule. Subsection 401(c) accomplishes this.

Section 402 amends the National Security Act of 1947 to permit an interlocutory appeal by the United States from any decision of a United States court or a judge thereof on any evidentiary ruling or dispositive motion when the Director of Central Intelligence certifies that the decision being appealed will have an adverse impact on the national security. Recently, the U. S. has encountered significant problems in attempting to perfect interlocutory appeals of several court decisions. The hallmark of these cases is an attempt by the plaintiffs to force the U. S. to submit to civil discovery and a trial on the merits, even though the Government's legal arguments would likely eliminate the need for discovery or further judicial proceedings if the issues could be litigated fully on appeal. Moreover, in those cases where the disclosure of sensitive national security information is directly at issue, the U. S. needs the ability to protect its information from any unnecessary risk of immediate disclosure. Under current law the U.S. may find that the only means of obtaining an immediate appeal to obtain a dispositive ruling is to consider a contempt of court. These problems can be resolved if the U.S. can obtain the right to interlocutory appeal upon a certification that the national security justifies it. It is

not intended, however, that the right established by this section in any way affect the role of the Attorney General in managing the litigation caseload of the United States.

Section 403 amends both the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) to provide an additional retirement credit in lieu of a post differential for service by Agency employees at unhealthful posts. Section 817 of the Foreign Service Act of 1980 (22 U.S.C. 4057) provides participants in the Foreign Service Retirement and Disability System with the ability to elect an extra credit towards retirement in lieu of a post differential for service at an unhealthful post. Because Agency employees serving overseas at unhealthful posts live under the same arduous conditions as State Department employees, the provision of this extra retirement credit to similarly situated Agency personnel is needed. While subsection 4(b) of the CIA Act of 1949 authorizes the DCI by regulation to provide Agency employees with benefits and allowances comparable to those paid to Foreign Service personnel, there is no indication in the legislative history that Congress considered Foreign Service retirement entitlements to be "allowances and benefits" within the meaning of this subsection. This proposal thus authorizes the DCI to designate from time to time a list of places which by reason of climatic or other extreme conditions are to be considered unhealthful posts. Subsection (a) permits Agency employees who are CIARDS participants in computing their length of service to elect to receive a retirement credit of one and a half years for each year of service at such posts in lieu of a post differential. Subsection (b) authorizes this same extra retirement credit for service at unhealthful posts by Agency employees who are participants in the Civil Service Retirement System or in a "new Government retirement system" as defined in Section 203(a)(4) of the Federal Physicians Comparability Allowance Amendments of 1983 should Agency employees be covered by or elect to participate in the new retirement system presently being considered by Congress. Under both subsections (a) and (b), in computing an employee's length of service at an unhealthful post, fractional months are to be considered as full months and regular leaves of absence are to be included in this computation. These computation methods are identical to those contained in section 817 of the Foreign Service Act of 1980.

Section 404 amends the CIA Act of 1949 and the National Security Agency Act of 1959 to make clear that CIA and NSA can continue to deal with security problems in the area of drug and alcohol abuse without regard to the provisions of any other law, rule or regulation. Recent court decisions and rulings by both the Equal Employment Opportunity Commission and the Merit Systems Protection Board have suggested that there will be increasing emphasis on treating alcoholism and alcohol abuse as a handicap protected under the provisions of the Rehabilitation Act, which outlaws handicap discrimination. By implication there will likely be a similar emphasis on treatment of drug abuse as a handicap with the same protection. This may very well result in an increased prospect of litigation whenever CIA or NSA determine that drug or alcohol abuse requires the denial or revocation of security approvals, or the denial or loss of employment. Not only is there concern about the prospects of having to litigate these decisions, but there also is a likelihood that CIA and NSA will be forced more and more to make accommodations to take into account these "handicaps," regardless of the security consequences of continuing to employ or clear such persons. In order to avoid these additional administrative and litigation problems, which could substantially impair the ability of CIA and NSA to carry out their national security missions and functions, this amendment would clearly authorize CIA and NSA to deal with the security implications of alcohol and drug abuse in the same manner as in the past.

#### TITLE V - SUPPORT FOR DEFENSE INTELLIGENCE COLLECTION ACTIVITIES

Section 501 adds a new chapter 19 to subtitle A of Title 10, United States Code, authorizing the establishment and conduct of corporations or other business entities to provide support for Department of Defense undercover intelligence collection activities without regard to a number of existing statutory restrictions applicable to U.S. Government agencies generally. This proposal, similar to the authority provided the Federal Bureau of Investigation (FBI) since 1979, is designed to provide an affirmative basis for such actions.

Proposed subsection 391 states that the purpose of proposed chapter 19 is to provide clear authority for the establishment of commercial covers to support intelligence collection activities. The activities for which such support will be provided will be properly authorized as provided by statute or executive order and coordinated with the appropriate agency (CIA overseas, FBI domestically) pursuant to national directives and interdepartmental agreements.

Proposed subsection 392a defines a new term "intelligence collection activities". The use of a new term rather than the redefining of the term "Intelligence activities" precludes the development of two definitions (EO 12333 & statutory) for the same term.

Proposed subsection 392b defines the term "Intelligence support activities" to mean the acquisition and operation of commercial cover systems as described in subsections 393 and 394.

Proposed subsection 392c defines one of the terms in subsection 302a, "foreign intelligence" as it is defined in EO 12333.

Proposed subsection 392d defines one of the terms in subsection 392a, "counterintelligence", as it is defined in EO 12333.

Proposed subsection 392e defines a new term "commercial cover" which is used throughout the proposed chapter 19 of this Title.

Proposed subsection 393a authorizes the Secretary of Defense and the Secretaries of the Military Departments to establish and conduct commercial covers as commercial entities.

Proposed subsection 393b authorizes operation of such commercial covers in accordance with prevailing commercial practice not limited by federal statutes that regulate the operations of commercial and industrial type governmental activities; to include but not limited to:

- 5 U.S.C. regulates all aspects of Federal Civil Employment.
- 31 U.S.C. 1301 which limits the application of appropriations.

- 31 U.S.C. 1341 which limits obligations and expenditures of services.
- 31 U.S.C. 1342 which limits the acceptance of voluntary services.
- 31 U.S.C. 1343 which limits purchasing of passenger motor vehicles and aircraft.
- 31 U.S.C. 1344 which restricts use of government vehicles, particularly domicile to duty.
- 31 U.S.C. 1348 which prohibits the use of appropriations to install telephones in private residences.
- 31 U.S.C. 1517 which prohibits obligation in excess of apportionments or regulations.
- Chapter 91 of Title 31 which regulates Government corporations. Compliance with the preceding statutes would either limit the operation of a commercial cover or lead to the compromise of a commercial cover.

Proposed subsection 393c exempts the intelligence activities authorized by section 391 from the restrictions contained in 31 U.S.C. 3302 against establishing bank accounts. Such commercial activity is necessary to operate a viable commercial business entity to serve as a cover. The criminal penalties of 18 U.S.C. 648 similarly are specifically stated as not applying insofar as the prohibition against establishing bank accounts is concerned. This proposed subsection also allows the use of any deposits of or proceeds which may be generated by a commercial entity for necessary and reasonable expenses incurred by it while providing cover for authorized undercover intelligence activities. A specific exception is provided to 31 U.S.C. 3302, which requires that all money received from any source be deposited in the U.S. Treasury without any deductions. This provision is required to assure that the cover of the business entities established is not jeopardized, to permit normal commercial administrative support activity, and to provide the operational flexibility needed to help ensure that the planned intelligence activities are accomplished as required. It is intended by this subsection that funds generated by a commercial entity may be used even if it is dissolved or replaced by another entity so long as the planned intelligence activity continues.



Proposed subsection 393d requires that any funds generated by any business entity or entities established under the authority of section 391 which are not required for accomplishing the purpose for which such entities were created shall be deposited into the U.S. Treasury as miscellaneous receipts. This proposed subsection also requires that any proceeds which may be generated from the sale, liquidation or other disposition of a business entity established under section 391 be deposited in the U.S. Treasury as miscellaneous receipts after all debts, claims or other obligations have been resolved.

Proposed subsection 394a provides that the Secretaries concerned may acquire necessary services, personalty, fixtures, and realty in order to support a commercial cover.

Proposed subsection 394b authorizes the secretaries concerned to conduct the commercial covers as if they were commercial entities utilizing standard business practice. Such methodology requires exemptions from the provisions of:

- 10 U.S.C. 2207 which prohibits contracting unless the contract contains specific provisions, the inclusion of which identifies the contracting agency as a U.S. Government entity.
- 10 U.S.C. 2276 which makes the contractor's books subject to Government audit. A government audit identifies the contracting agency as a U.S. Government entity.
- 10 U.S.C. 2301 which prohibits cost-plus-a-percentage-of-cost contracts. This may conflict with prevailing commercial practice. This section also subjects a commercial cover to small business set-a-sides.
- 10 U.S.C. 2304 which limits the use of negotiated procurements. Formal advertisement (sealed bids) may not be consistent with prevailing commercial practice.
- 10 U.S.C. 2306 which places restrictions on the kinds of contracting that may be used. These restrictions may conflict with prevailing commercial practice. This section also creates a right to examine all books, records, etc. of the contractor or subcontractor. This also may identify the contracting agency as a U.S. Government entity.

- 10 U.S.C. 2307 which prohibits certain advance payments for property and services. This may conflict with prevailing commercial practice.
- 10 U.S.C. 2313 which creates a right to inspect plants and audit books of certain contractors and subcontractors. Such an inspection would identify the contracting agency as a U.S. Government entity.
- 10 U.S.C. SC 2360 which creates a right for students contracting with the Government to be entitled to be considered as employees which may identify the contracting agency as a government agency.
- 10 U.S.C. 2381 which requires certain measures for non-negotiated procurements which will identify the contracting agency as a governmental entity (surety bonds, charges, etc.).
- 10 U.S.C. 2384 which requires supplies furnished to a military department to be uniquely marked, which will identify the contracting agency as a governmental entity.
- 10 U.S.C. 2631 which restricts transportation of supplies to U.S. Flag Vessels. This may conflict with prevailing commercial practice.
- 10 U.S.C. 2662 which requires reporting of certain real estate transactions to Congress 30 days in advance of the transaction. This may compromise the commercial cover.
- 10 U.S.C. 2672 restricts agency authority to acquire an interest in land to \$100,000 or less. This may conflict with prevailing commercial practice.
- 10 U.S.C. 2676 limits authority to acquire land unless acquisition is expressly authorized by law. The current procedure for doing this may compromise the commercial cover.
- 31 U.S.C. 3324 which prohibits advances of public money unless specifically authorized by law and also prohibits payment in excess of the value of a service or article prior to its receipt. This may conflict with prevailing commercial practice.

- 40 U.S.C. 34 which prohibits leasing of a building or part of a building, in the District of Columbia without a specific congressional appropriation. This may conflict with prevailing commercial practice or compromise the commercial cover.
- 41 U.S.C. 11(a) which prohibits entering into a contract or purchasing without sufficient money having been appropriated for that purpose. This may conflict with prevailing commercial practice.
- 41 U.S.C. 22 which requires all U.S. Government contracts and agreements to contain an express condition that no Member of Congress shall be admitted to any share or part thereof, or to any benefit arising therefrom. Inclusion of such language may compromise the commercial cover.
- 41 U.S.C. 255 which prohibits advance payments which exceed the unpaid price of any contract and prohibits any advance, partial, progress or other payment without adequate security. This may conflict with prevailing commercial practice.
- 41 U.S.C. 254(a) which requires a warranty in all negotiated contracts that no commission, percentage, brokerage or contingent fee was paid to secure the contract. Inclusion of such a condition may compromise the commercial cover.
- 41 U.S.C. 254(c) which requires a clause in all negotiated contracts permitting the Comptroller General access to all books, documents, papers and records of the contractor and its supplies until three years after final payment. Inclusion of such language may compromise the commercial covers.

Proposed section 395 requires the Secretary of Defense to establish a system to provide adequate oversight of activities and accountability of funds for commercial cover.

Proposed subsection 396a restricts the operation of commercial covers, conducted pursuant to sections 393 and 394, to procedures to be promulgated by the Secretaries of the respective departments.

Proposed subsection 396b requires annual reviews of commercial covers and reports to Congress in accordance with 50 U.S.C. 413.

Proposed subsection 395c makes clear that intelligence support activities conducted under this chapter are to be protected from unauthorized disclosure pursuant to 50 U.S.C. 403(d)(3).

#### TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 601 amends section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) to improve the ability of the United States to obtain foreign intelligence from sources abroad by authorizing the waiver of three requirements for naturalization for certain persons who have made significant contributions to the national security or to the national intelligence mission. The requirements are general residency and physical presence, the requirements imposed on members of certain organizations, and the requirement that the naturalization petition be filed in the court which has jurisdiction over the petitioner's place of residence.

Congress has established a number of conditions on the granting of United States citizenship. These are set forth in Chapter 2 of Title III of the Immigration and Nationality Act, 8 U.S.C. 1421 et seq. The Congress has recognized, however, that when necessary to other governmental interests, certain of these requirements should be reduced or waived entirely. Unfortunately, there remain some requirements of the Immigration and Nationality Act which prevent complete recognition of significant contributions to the national security or to the national intelligence mission, and limit the ability of the United States to recruit potential foreign intelligence sources. The proposed amendment seeks to remedy this situation by addressing three requirements which currently stand in the way of expeditious naturalization of individuals making such contributions. Under the proposed amendment, waivers would be authorized in recognition of outstanding contributions to the United States and of the fact that the character and quality of service to the United States by certain individuals demonstrates that there is no need for them to serve a probationary period of residence to prove their fitness for citizenship.

The waivers authorized by proposed subsection (b) are limited in nature. They would become operative only after the requisite finding by the Director of Central Intelligence (DCI), the Attorney General (AG), and the Commissioner of the Immigration and Naturalization Service (INS). Waivers would be authorized only for three very specific requirements for naturalization. Individuals granted such waivers would have to comply with all other naturalization requirements.

### Residence and Physical Presence

Section 316 of the Immigration and Nationality Act sets forth the residency and physical presence requirements which must be met by a petitioner. The establishment of these residency requirements reflects a determination by the Congress that such probationary periods are necessary in order for a petitioner to demonstrate his fitness for citizenship. Nevertheless, the Congress has also determined that for certain classes of petitioners these requirements are neither necessary nor appropriate. Thus, the Congress had determined that in certain cases the service which an individual has rendered to the United States demonstrates his fitness to become a citizen and merits expedited consideration. Among the classes of persons afforded such special treatment under the Immigration and Nationality Act in recognition of their service to the United States are: Individuals employed overseas by the United States Government, an American corporation engaged in the development of foreign trade or commerce, or, an American institution of research (§316(b)); employees of the United States Government employed abroad (§316(c)); merchant seamen on United States flag ships (§330), and; persons who have served in the Armed Forces of the United States (§328 and 329).

It also is clear that one of the classes of persons which the Congress has determined merits special consideration under the immigration and naturalization laws for their service to the United States are persons who have contributed to the national security. This determination is embodied in section 7 of the Central Intelligence Agency Act of 1949, 50 U.S.C. 403h. Section 7 permits the admission of a limited number of persons to permanent resident alien status notwithstanding their inadmissibility under the immigration laws if the DCI, AG, and the Commissioner of INS determine that such admission would be "in the interest of national security or essential to the furtherance of the national intelligence mission."

The Congress also has recognized that there must be some flexibility concerning naturalization of such persons. Accordingly, in subsection (c) of section 316 of the Immigration and Nationality Act, the Congress has seen fit to relax certain residency requirements for the naturalization of persons who are employed by or contractors of the Central Intelligence Agency. In the case of Victor Ivanovich Belenko, the Soviet Air Force pilot who defected to the West, the Congress saw fit to waive the residency requirements for naturalization as well as the impediments to naturalization imposed by Mr. Belenko's prior membership in the Communist Party and the requirement as to the place of filing his petition. (Private Law 96-28; see Senate Report 96-903).

Given the importance of expedited naturalization for individuals, not citizens of the United States, who are in a position to make significant contributions to the national intelligence mission, this provision will provide the United States with an ability to offer such an inducement to potential foreign intelligence sources abroad. In virtually all these cases at present, such expeditious action is foreclosed by the requirements of Section 316.

The delay which these individuals must face in complying with existing law is often a serious blow to their aspirations of becoming full fledged members of the American community. Current law eliminates an opportunity to stimulate future contributions to our national security by those who might be encouraged to cooperate with us on account of the availability of a smooth and swift transition to United States citizenship.

It is possible to overcome these problems through the enactment of private bills, as in the Belenko case. Obtaining a private bill, however, entails explaining the individual's contribution and why it merits expeditious naturalization. This is often impossible, because in many cases even the slightest publicity would jeopardize the individual's security and could diminish the value of his contribution to the intelligence mission. This is particularly true when the United States is taking affirmative measures to conceal an individual's identity or the nature of his contribution to the intelligence mission.

Proposed subsection (g)(1) establishes a systematic method of recognizing the importance of services rendered to the United States by certain individuals by permitting the Director of Central Intelligence, the Attorney General and Commissioner

to waive the residency and physical presence requirements of section 316 in appropriate cases. This waiver will recognize the contributions of these individuals by allowing them to petition immediately for naturalization without having to endure an unnecessary probationary period. The individuals who would benefit from the proposed waiver authority would already have demonstrated their fitness to become citizens and their commitment to the United States.

Proposed subsection (g)(1) is consistent with the existing structure of the naturalization laws, which already permit the waiver of these requirements for other classes of individuals who have rendered special service to the United States. Further, it builds upon the Congressional recognition, embodied in Section 7 of the Central Intelligence Agency Act of 1949, subsection (c) of Section 316, and the Belenko legislation, that the requirements of the immigration and nationality laws should be flexible in application to persons who make a substantial contribution to the national intelligence mission.

#### Membership in Prohibited Organizations

Section 313 of the Immigration and Nationality Act, 8 U.S.C. 1424, prohibits the naturalization of individuals who are members of certain prohibited organizations or who espouse certain political ideologies. Its principal thrust is directed against persons who are members of the Communist Party in any of its various manifestations worldwide, in effect barring them from naturalization.

Subsection 313(c), however, provides an exception to this general exclusion. It permits petitioners who otherwise would be barred by Section 313 to petition for naturalization provided that, at the time of petitioning, more than ten years have elapsed since termination of their membership in the prohibited organization. This is, in effect, a ten year probationary period for former members of the Communist Party, during which they must demonstrate that they have shed their attachment to the Party, its principles and goals, and are otherwise fit for citizenship.

Section 313 imposes some special difficulties vis-a-vis the national intelligence mission in that some of the most important contributions to that mission are made by individuals who were members of the Communist Party. Indeed, their ability to contribute to this mission is normally enhanced by their Communist Party membership. Proposed subsection (g)(1) would

permit waiver of this ten year bar for persons who have made significant contributions to the national intelligence mission.

As with the residency requirements of Section 316, the probationary period established by Section 313(c) is not needed in the case of these individuals. By their service to the national intelligence mission, they have demonstrated, usually at the risk of their lives, that they have effectively foresworn Communism and are fit candidates for United States citizenship. They need no probationary period to prove that fitness.

#### Residence Within the Jurisdiction

Section 316(a) of the Immigration and Nationality Act, 8 U.S.C. 1427(a), taken together with other sections of that Act, requires a petitioner to file his petition for naturalization in the court which has jurisdiction over his place of residence. In effect, this means that the petitioner must file in the State in which he spends the last six months of required State residency.

~~A waiver of the physical presence and residency~~ requirements of Section 316 also necessitates a waiver of this procedural requirement. Petitioners benefiting from a waiver of the physical presence and residency requirements most likely will not have a permanent place of residence at the time of filing their petitions; hence, there will be no court with jurisdiction over the place of residence. Section 328 of the Immigration and Nationality Act is illustrative in this regard. In Section 328 the Congress has seen fit to waive the physical presence and residency requirements on the basis of service in the armed forces, and the requirement for residence within the jurisdiction is waived as well.

A waiver of the Section 316(a) requirement for individuals who have made significant contributions to the national intelligence mission also follows from the circumstances of individuals involved. Not only might they lack established residences, but it may be advisable for the United States, for reasons of security, to have the petition filed at a particular location.



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Proceedings under this Subsection

Subsection (g)(2), together with the last sentence of subsection (g)(1), make it clear that a naturalization petition which arises under this section may be filed in any district court. Subsection (g)(2) also mandates that the naturalization proceeding be conducted so as to insure the protection of intelligence sources and methods from unauthorized disclosure.

As noted above, the petitioner in such cases often has not had the opportunity to establish residency in a particular location in the United States. In addition, security concerns and the interests of the government may require that the individual reside in a particular place or not reside in other places. Accordingly, subsection (g)(2) provides that a naturalization petition in such cases can be filed in any district court in the United States, and that such petitions are to be accepted for adjudication by the court in which they are filed.

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Information involved in such naturalization proceedings will, by definition, be quite sensitive and revealing of the national intelligence mission. All information necessary to the adjudication of the petition, must, of course, be presented to the court. Yet, at the same time, information concerning intelligence sources and methods must be protected from unauthorized disclosure. No particular procedure is required. It instead is left to the discretion of the court and the government to insure that appropriate procedures, e.g., sealing of the record, are utilized.

### Conclusion

In sum, the proposed amendment is needed to enhance the ability of the United States to collect information from and recruit foreign intelligence sources and is warranted as a recognition of the significant contributions made by certain individuals to the national intelligence mission. It is narrowly drawn, building upon previous legislative enactments in the area of intersection between the national intelligence mission and the immigration and nationality laws.

## TITLE VII - UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION

Section 701 provides a new subchapter VII to the National Security Act of 1947 (50 U.S.C. 401 et seq.) prohibiting certain unauthorized disclosures of classified information and makes the corresponding change in the table of contents for Chapter 15 of Title 50.

Proposed Section 701 provides criminal penalties for willful unauthorized disclosure of classified information by current or former federal employees and others, such as government contractors, who have or have had authorized access to classified information. With the narrow exceptions of unauthorized disclosures of atomic energy Restricted Data, communications intelligence and cryptography information, and the identities of covert agents, willful unauthorized disclosures of classified information by those entrusted with it by the government are not per se offenses under existing federal criminal statutes.

Subsection (a) of 701 prohibits willful disclosure or attempted disclosure of classified information, by a federal civilian or military officer or employee or other person with

authorized access to such information, to any person who is neither a federal civilian or military officer or employee nor a person with authorized access to such information. The subsection provides criminal penalties of not more than five years imprisonment or a \$25,000 fine, or both, for each violation.

Subsection (a) also prohibits unauthorized disclosures by persons who previously have been officers or employees of the United States, and to persons who have had authorized access to classified information. This retroactive feature is important to ensure that criminal liability under the proposed section is not evaded by an individual who begins to make unauthorized disclosures after government service or authorized access has ceased.

Subsection (b) of 701 applies to a current or former federal civilian or military officer or employee, and to any other person who has or has had authorized access to classified information, who aids or abets another such person in the unauthorized disclosure of the information, directly or indirectly such as through a chain of intermediaries, to a ~~person who is neither a federal civilian or military officer or employee, nor a person with authorized access to the classified information.~~ The criminal penalties for such an offense are identical to those provided for the offense defined in subsection (a).

Subsection (c) of 701 provides definitions for terms employed in subsections (a) and (b). Subparagraph (i) defines "classified information" to consist of information or material that has been determined by the United States Government to require protection against unauthorized disclosure for reasons of national security pursuant to a statute, Executive order, or litigation. It is intended that prosecutions would be barred unless a person has clear notice or reason to believe the information disclosed was classified. Subparagraph (ii) defines the term "disclose," or "discloses," to include all forms of disclosure enumerated in the existing provisions of 18 U.S.C. 793-798 and 50 U.S.C. 426, 783. Subparagraph (iii) defines the term "authorized access" to include authority or permission to receive information within the scope of authorized government activities or pursuant to the routine security clearance processes of the Executive branch, orders of the courts of the United States, or rules of either House of Congress.

Subsection (d) of 701 assures that no criminal liability will attach under subsections (a) or (b) to otherwise lawful disclosures of classified information to the Congress or the courts.

Subsection (e) (i) assures that no criminal liability will attach when the information previously has been disclosed publicly by U.S. government officials authorized to do so. Subsection (e) (ii) further permits a defendant to assert as a defense that the information disclosed was not information that was obtained as a result of employment or to which he or she had authorized access as defined in the bill. Subsection (e) (iii) allows a defendant to assert as a defense the good faith publication based upon prior U.S. Government review of the information pursuant to a request from the defendant for prepublication or declassification review. Prosecution would be barred if the defendant has submitted the information for review, pursuant to an express agreement providing for prepublication review or otherwise, and has been notified by the Government that it has no objection to the disclosure or declassification on national security grounds, or if the U.S. objection or denial of declassification has been overturned by a federal court decision that is final.

Subsection (f) is designed to ensure that no prosecutions may occur unless the Attorney General and the head of the department or agency with responsibility for the classified information concerned have certified that the information disclosed constitutes properly classified information. Such certifications shall be final and unreviewable, and shall be conclusive indication that the information constitutes information that properly meets the criteria for a specific level of classification under statute or Executive order. However, a defendant may challenge the propriety of the classification by showing that the information was available and obtained from public sources prior to the defendant's disclosure. In such cases, the United States shall be provided an opportunity to establish that the information nevertheless remained properly classified despite its availability from public sources, because it had not been officially disclosed or confirmed by the United States. A defendant also may challenge the classification by making a prima facie showing, based upon personal knowledge or otherwise admissible evidence, that the information was improperly classified by the U.S. at the time of the defendant's disclosure because it did not meet the substantive criteria for classification called for by

applicable statute, order, or directive. It is intended by this subsection that, upon the requisite showing by a defendant, the United States shall justify the propriety of the classification, in camera ex parte, by showing the damage that, at the time of the defendant's disclosure, reasonably could be expected from disclosure. Thus, a prosecution could not be maintained under this section if a defendant discloses certain information that is available from public sources because of a prior unauthorized disclosure, unless the United States can establish that, at the time of the disclosure, the additional disclosure of the information or confirmation by a person with authorized access reasonably could be expected to cause damage to the national security. Further, no prosecution could be maintained if, after a prima facie showing by the defendant that classification was arbitrary or otherwise improper, the court rules in defendant's favor. Finally, the provision for in camera, ex parte consideration of the propriety of the classification is intended to permit the court to determine the issue without exposing additional classified information to persons not authorized to have access to such information. It is intended that the court's examination on the matter shall be de novo in accordance with the standards for review established under the Freedom of Information Act. The court's ~~determination on this issue is to be conclusive on the propriety of the classification, and is a matter of law.~~

Subsection (g) provides the United States the right to an interlocutory appeal from any adverse ruling by the court on the propriety of the classification. This provision enables the issue to be resolved before submitting the case to trial, and parallels the provision for interlocutory appeal contained in the Classified Information Procedures Act. It is intended, moreover, that the provisions of that Act also will be available to ensure the protection of classified information from unauthorized disclosure.

Subsection (h) provides that prosecutions may be commenced even if the disclosure that provides the basis for prosecution under the bill is made outside the territorial jurisdiction of the United States.

Section 702 makes the appropriate amendment to chapter 15 of title 50 to reflect the addition of this new subchapter.

## TITLE VIII

### PERSONAL LIABILITY AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947

Section 801 amends the National Security Act of 1947 (50 U.S.C. 401 et seq.) so that, in tort actions, including actions arising under the U.S. Constitution, the United States will be substituted for individual defendants employed by Intelligence Community agencies who are sued in their personal capacities for acts undertaken in the scope of their Government employment. In recent years, it has become commonplace for senior Intelligence Community officials to be sued in their individual (as well as official) capacities for making national security judgments which they are authorized by law to make. Intelligence Community officials live under the constant fear that their official actions may result in years of litigation, and that a judgment for monetary damages may ultimately be entered against them. Responsible officials who must make the most sensitive decisions affecting the national security cannot be placed in an environment where they constantly have to be concerned about their personal and financial well-being. This provision amends the United States Code to provide that any cause of action a person may have for tort claims, including claims arising under the Constitution, for acts taken by Intelligence Community officials during the scope of their employment, will be against the United States exclusively. This bill further provides that the existing procedures of the Federal Tort Claims Act, shall be applied to litigation under this section. Suits against intelligence officers or employees in their individual capacities are precluded. The sole remedy would be against the United States.

This provision is intended to be a waiver of sovereign immunity with respect to Constitutional torts brought against officials in their individual capacities. It is intended to retain for the U.S. any defenses those individuals may have had in suits brought against them. Thus, for constitutional torts the U.S. for the first time shall be liable to the same extent as the officer or employee would have been in any Bivens action prior to the enactment of this provision. Remedies for common law and statutory torts will remain substantially the same, except that employees no longer will be subjected to suit at all, and claims of absolute or qualified immunity will be made by the United States.

The bill further provides at subsection (c) that the Attorney General shall defend any action referred to in subsections (a) and (b). Personnel are required to initiate notification of any tort action to the relevant United States attorney.

Subsection (d) provides that a certification by the Attorney General that the officer or employee was acting within the scope of employment in an authorized activity shall convert the action into a suit against the United States.

Subsection (e) provides for removal of cases brought against officers or employees in state courts to federal district court, and substitution of the U.S. as proper party.

Subsection (f) provides that the U.S. shall have available to it all the defenses that would have been available to it and to a defendant sued in his individual capacity, and would nullify a provision in the Federal Tort Claims Act which would otherwise exclude any action for claims arising in foreign countries.

Subsection (g) emphasizes that the Attorney General may ~~compromise or settle any claims brought under this section.~~

Section 802 makes the appropriate amendment to Chapter 15 of Title 50 to reflect the addition of this new subchapter.

## TITLE IX

### GENERAL PROVISIONS

Section 901 makes clear that, with the exception of any specific legislative authorities which may be contained in the Intelligence Authorization Act for Fiscal Year 1986, the Act is intended only to authorize appropriations and does not constitute authority for the conduct of any intelligence activity prohibited by the Constitution or laws of the United States.

Section 902 authorizes the increase of appropriations authorized by the Act for salary, pay, retirement and other benefits for federal employees as necessary for increases in such benefits authorized by law.

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**INTELLIGENCE AUTHORIZATION ACT  
FOR FISCAL YEAR 1986**

**COST ANALYSIS**

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TITLE I

INTELLIGENCE ACTIVITIES

Section 101: Fiscal Year 1986 authorizations are contained in the Classified Schedule of Authorizations.

Section 102: Cost analysis not applicable.

Section 103: Cost analysis not applicable.

Section 104: Cost contingent upon exercise of permissive authority.

TITLE II

INTELLIGENCE COMMUNITY STAFF

Section 201: The fiscal year 1986 authorization is \_\_\_\_\_.

Section 202: Cost analysis not applicable.

Section 203: Cost analysis not applicable.

TITLE III

CENTRAL INTELLIGENCE AGENCY  
RETIREMENT AND DISABILITY SYSTEM

Section 301: The fiscal year 1986 authorization is \_\_\_\_\_.

TITLE IV

ADMINISTRATIVE PROVISIONS RELATED  
TO INTELLIGENCE AGENCIES

Subsection 401: (a) Would result in a cost of \$10,700.00 per annum, representing the current difference between the annual rate of basic pay payable for positions listed at Level I of the Executive Schedule and those listed at Level II.

Subsection 401: (b) Would result in a cost of \$1,400.00 per annum, representing the current difference between the annual rate of basic pay payable for positions listed at Level II of the Executive Schedule and those listed at Level III.

Subsection 401: (c) Cost analysis not applicable.

Section 402: Cost analysis not applicable.

Section 403: Would result in a cost of \_\_\_\_\_ per annum.

Section 404: Cost analysis not applicable.

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TITLE V

SUPPORT FOR DEFENSE INTELLIGENCE ACTIVITIES

Section 501: Enactment of this legislation should not result in any additional cost to the Department of Defense or the Federal Government.

TITLE VI

MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 601: Cost analysis not applicable.

TITLE VII

UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION

Section 701: Cost analysis not applicable.

Section 702: Cost analysis not applicable.

TITLE VIII

PERSONAL LIABILITY OF INTELLIGENCE COMMUNITY PERSONNEL

Section 801: Cost analysis impossible to determine.

Section 802: Cost analysis not applicable.

TITLE IX

GENERAL PROVISIONS

Section 901: Cost analysis not applicable.

Section 902: Cost analysis impossible to determine.

INTELLIGENCE AUTHORIZATION ACT FOR  
FISCAL YEAR 1986

CHANGES IN EXISTING LAW

NOTE: Where applicable, changes in existing law are shown as follows: ~~existing law in which no change is proposed~~ is shown in roman; existing law proposed to be struck is enclosed in brackets; new material is underscored.

TITLE I

INTELLIGENCE ACTIVITIES

Section 101: No substantive change.

Section 102: No substantive change.

Section 103: No substantive change from Section 103 of the fiscal year 1985 Act.

Section 104: No substantive change from Section 106 of the fiscal year 1985 Act.

TITLE II

INTELLIGENCE COMMUNITY STAFF

Section 201: No substantive change.

Section 202: No substantive change.

Section 203: No substantive change.

TITLE III

CENTRAL INTELLIGENCE AGENCY  
RETIREMENT AND DISABILITY SYSTEM

Section 301: No substantive change.

TITLE IV

ADMINISTRATIVE PROVISIONS RELATED TO  
INTELLIGENCE AGENCIES

Section 401: Amends title 5, United States Code, as follows:

5 U.S.C. 5312

\* \* \* \* \*

Director of Central Intelligence.

5 U.S.C. 5313

\* \* \* \* \*

Deputy Director of Central Intelligence.

5 U.S.C. 5314

\* \* \* \* \*

[Deputy Director of Central Intelligence.]

\* \* \* \* \*

Section 402: Amends the National Security Act of 1947 (50 U.S.C. 401 et seq.) by adding at the end of section 102a the following new section:

"SEC. 102b. In any civil action, suit, or proceeding in which the United States or any officer, employee or agent thereof is a party, or in which the United States has an interest, an interlocutory appeal may be taken as of right from a decision of any court of the United States, or a judge thereof, on any evidentiary or discovery matters, or potentially dispositive motions, if the Director of Central Intelligence certifies that the decision will have an adverse impact upon the national security of the United States. In such cases, appeal may be taken upon application of the Attorney General to the appropriate courts of appeals, which shall have jurisdiction of appeals under this provision, except where direct review may be had in the Supreme Court. A stay of all proceedings shall be granted pending disposition of the appeals."

Section 403(a): Amends section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) by inserting "(a)" after "Sec. 251." and adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant under this Act, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 or Title 5 for such service."

Section 403(b): Amends the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) by adding at the end thereof the following new section:

"Extra Credit for Service at Unhealthful Posts

SEC. 16. The provisions of subsection 251 (b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) authorizing the Director of Central Intelligence to establish a list of unhealthful posts for which an extra retirement credit for service at such posts is available to an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System or in a new Government retirement system as defined in Section 203(a)(4) of the Federal Physicians Comparability Allowance Amendments of 1983."

Section 404: (a) Amends the Central Intelligence Act of 1949 (50 U.S.C. 403a et seq.) by adding at the end of Section 16 the following new section:

"SEC. 17. In its discretion, the Agency may, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

(b) Amends the National Security Agency Act of 1959 (50 U.S.C. 402 note):

"1) by redesignating section 2 as section 2(a) and

"2) by adding at the end thereof the following new subsection:

"b) The Secretary of Defense (Or his designee for the purpose) may, in his discretion, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

## TITLE V

### SUPPORT FOR DEFENSE INTELLIGENCE ACTIVITIES

Section 501: Amends subtitle(a) of title 10, United States Code, by adding the following new chapter after Chapter 18:

#### "CHAPTER 19 - SUPPORT FOR INTELLIGENCE

"SEC.

391. Purpose of this chapter.

392. Definition.

393. Authority to conduct commercial cover.

394. Authority to acquire logistic support, supplies, and services.

395. Oversight.

"SEC. 391. Purpose of this chapter

The purpose of this chapter is to provide clear authority for the Secretary of Defense and the Secretaries of the Military Departments to conduct support activities necessary for authorized and appropriately coordinated intelligence collection activities of the Department of Defense.

"SEC. 392.

a. "Intelligence collection activities" means the



collection of foreign intelligence or counterintelligence information by intelligence components of the Department of Defense.

b. "Intelligence support activities" means those activities described in sections 393 and 394, below.

c. "Foreign intelligence" means information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

d. "Counterintelligence" means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassination conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

e. "Commercial cover" means a business entity that is established solely to conceal the role of an intelligence component of the Department of Defense as it performs intelligence collection activities.

"SEC. 393. Authority to conduct commercial cover"

a. "The Secretary of Defense and the Secretaries of the Military Departments, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, as appropriate, may establish and conduct commercial entities such as corporations, partnerships, sole proprietaries, and other business entities as commercial covers to support intelligence collection activities of the Department of Defense, as defined herein. Such commercial entities may only be established upon written certification that commercial cover is necessary to the conduct of authorized intelligence collection activities.

b. "The establishment and operation of commercial entities conducted pursuant to this section shall be consistent with prevailing commercial practice. To this end laws applicable to federal appropriations, federal services management, federal property management, and Government corporations including but not limited to Title 5, sections 1301, 1341, 1342, 1343, 1344, 1348, 1517 of Title 31; and chapter 91 of Title 31 shall not apply where such application would be inconsistent with prevailing commercial practice or would otherwise compromise the commercial cover.

c. "Notwithstanding the provisions of sections 3302, 3322, and 3341 of Title 31 and section 648 of Title 18, the Secretary of Defense and the Secretaries of Military Departments, or their designees, are authorized to deposit, and withdraw funds appropriated for the Department of Defense used to conduct commercial cover and funds generated by the business entities authorized by this section, in banks or other financial institutions. The deposits of and funds generated by such business entities may be used to offset necessary and reasonable expenses incurred by such activities without regard to the provisions of section 3302 of title 31, U.S.C.

d. "Upon the liquidation, dissolution, sale, or other disposition of the assets of a business entity established and conducted under the provisions of this section, the funds from each disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Funds generated by such business entities that are required to maintain the entity's commercial cover may be deposited and withdrawn, in commercial accounts, but such funds may not be used to support intelligence collection activities. Funds generated by business entities not needed to maintain the entity's commercial cover shall be deposited, on a quarterly basis, in the Treasury of the United States as miscellaneous receipts.

"SEC. 394. Authority to acquire logistic support, supplies, and services

a. "Subject to the availability of appropriations, the Secretary of Defense, and the Secretaries of the Military Departments may acquire any goods, services, property, buildings, facilities, space, insurance, licenses and any equipment necessary in order to establish or maintain a commercial cover.

b. "Acquisitions made under the provisions of this section are to be made utilizing procedures consistent with prevailing commercial practice. To this end, laws applicable to federal acquisitions including but not limited to sections, 2207, 2276, 2301, 2304, 2306, 2307, 2392, 2393, 2313, 2360, 2381, 2384, 2631, 2662, 2672, 2675, 2676 of this Title, section 3324 of Title 31, section 34 of Title 40, and sections 22, 254(a), 254(c) and 255 of Title 41 shall not apply where such application would be inconsistent with prevailing commercial practice or would otherwise compromise the commercial cover.

"SEC. 395. Oversight

The Secretary of Defense shall establish a system to ensure oversight of and accountability for the intelligence support activities conducted pursuant to sections 393 and 394 of this title.

"SEC. 396. General Provisions

a. "The intelligence support activities authorized pursuant to sections 393 and 394 may only be conducted in accordance with regulations promulgated by the Secretary of Defense.

b. "The Secretary of Defense, Deputy Secretary of Defense, and Secretaries of the Military Departments shall ensure that elements of the Department of Defense that undertake intelligence support activities pursuant to this chapter conduct annual reviews of such support activities and shall ensure that the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence are kept fully and currently informed of such activities, as prescribed in section 413 of Title 50.

c. "Intelligence support activities authorized under this chapter shall be protected pursuant to 50 U.S.C. 403(d)(3).

d. "The table of chapters at the beginning of subtitle a of such title and at the beginning of Part I of such subtitle are each amended by inserting after the item relating to chapter 18 the following new item:

"19. Support for Intelligence.....391".

**TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS**

**Section 601:** Amends section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, the petitioner may be naturalized without regard to the residence and physical presence requirements of this

section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

(2) A petition under this provision may be filed without regard to the residence of the petitioner in any district court of the United States. The court shall conduct proceedings under this subsection in a manner consistent with the protection of intelligence sources, methods and activities."

## TITLE VII

### UNAUTHORIZED DISCLOSURES OF INTELLIGENCE INFORMATION

SEC. 701: Amends the National Security Act of 1947 (50 U.S.C. 401 et seq.), by adding at the end thereof the following new sections:

"§ 701. Unauthorized Disclosure of Classified Information

(a) Whoever, being or having been an officer or employee of the United States or a person having or having had authorized access to classified information, willfully discloses, or attempts to disclose, any classified information to a person who is not an officer or employee of the United States and who does not have authorized access to classified information, shall be fined not more than \$25,000, or imprisoned not more than five years, or both.

(b) Whoever, being or having been an officer or employee of the United States or a person having or having had authorized access to classified information, willfully aids or abets the violation of subsection (a), shall be fined not more than \$25,000, or imprisoned not more than five years, or both.

(c) As used in this section --

(i) the term "classified information" means any information or material that has been determined by the United States Government pursuant to an Executive order, statute or regulation to require protection against unauthorized disclosure for reasons of national security;

- (ii) the term "disclose" or "discloses" means to communicate, furnish, deliver, transfer, impart, provide, publish, convey, or otherwise make available;
- (iii) the term "authorized access" means having authority, right, or permission to receive classified information or material within the scope of authorized government activities or pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency who is empowered to classify information, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which governs the handling of classified information by the respective House of Congress.
- (d) Nothing in this section shall be construed to establish criminal liability for disclosure of classified information in accordance with applicable law to:
- (i) any court of the United States, or judge or justice thereof; or
- (ii) the Senate or House of Representatives, or any committee, subcommittee or joint committee thereof.
- (e) It is an affirmative defense to a prosecution under this section that:
- (i) before the defendant's disclosure, the information that provides the basis for prosecution under this section officially had been disclosed publicly; or
- (ii) the defendant did not obtain the classified information that provides the basis for prosecution under this section as a result of his duties as an officer or employee of the United States, or as a result of authorized access to classified information; or
- (iii) the defendant has submitted the information that provides the basis for prosecution under this section to a department or

agency of the United States for prepublication review, whether under a contract which provides for such review or otherwise, or for declassification review pursuant to the provision of an Executive order, and (a) the United States informed defendant that it did not object to disclosure, or (b) the United States objected to such disclosure, or denied declassification, and such objection or denial was overruled in a final opinion or ruling of a court of the United States.

(f) Prosecution under this section shall be barred unless, prior to the return of an indictment or the filing of any information, the Attorney General and the head of the department or agency responsible for the classified information jointly certify in writing that, at the time of the disclosure, the information constituted properly classified information. Such certification shall be conclusive as to the propriety of the classification except that, if a defendant demonstrates that the information that provides the basis for prosecution under this section was available from public sources or makes a prime facie showing that the information does not meet the substantive criteria for classification under applicable law, the prosecution may proceed if the United States establishes that the information, at the time of the disclosure, was properly classified because the particular disclosure reasonably could be expected to damage the national security. The court, based upon submissions of defendant and the United States, shall determine whether the information was properly classified. Upon request of the United States, the court's determination of the issue shall be in camera, ex parte. Any determination by the court on the propriety of the classification shall be de novo and a matter of law, and shall be conclusive except as provided in subsection (g) below.

(g) An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of the court with respect to the propriety of the classification of the information that provides the basis for prosecution under this section.

(h) There is jurisdiction under this section over an offense committed outside the United States.

SEC. 702. The table of contents of Chapter 15 of title 50, United States Code, is amended to include the following caption:

"§ 427. Unauthorized Disclosure of Classified Information".

#### TITLE VIII

#### PERSONAL LIABILITY AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947

Section 801: Amends the National Security Act of 1947 (50 U.S.C. 401 et seq.) by adding at the end of Subchapter VII the following new subchapter:

#### "SUBCHAPTER VIII - Personal Liability of Intelligence Community Personnel

##### § 801. Personal Liability

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 of the United States Code for claims for injury or loss of property, or personal injury or death, resulting from the negligent or wrongful act of omission of any officer or employee of the Intelligence Community while acting within the scope of his office or employment shall hereafter be exclusive of any other civil action or proceeding, arising out of or relating to the same subject matter, against the officer or employee whose act or omission gave rise to the claim, or against the estate of such officer or employee.

(b) The United States shall be liable, to the extent that liability for such tort is recognized or provided by applicable Federal law, for claims for money damages sounding in tort arising under the Constitution of the United States resulting from an act or omission of any officer or employee of the Intelligence Community while acting within the scope of his office or employment. Such claims shall be treated in the same manner as claims cognizable under section 1346(b) and 2672 of title 28 of the United States Code. The remedy against the United States provided by this subsection shall hereafter be exclusive of any other civil action or proceeding, arising

out of or relating to the same subject matter, against any officer or employee whose act or omission gave rise to any such claims, or against the estate of the officer or employee. This remedy shall be deemed an equally effective substitute for any recovery against the officer or employee in his individual capacity directly under the Constitution. The United States shall not be liable for interest prior to judgment or for punitive damages.

(c) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) and (b) of this section (or the estate of such person) for any such claims. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or any attested true copy thereof to such person's immediate superior or to whomever was designated by the Federal agency, which employed the individual at the time of the alleged act or omission that gave rise to the action or proceeding, to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of that Federal agency.

(d) Upon certification by the Attorney General that the defendant officer or employee was acting within the scope of his office or employment at the time of the incident out of which the action arose, any civil action or proceeding commenced in the United States district court shall be deemed an action against the United States under the provisions of title 28 of the United States Code and all references thereto, and the United States shall be substituted as the party defendant.

(e) Upon certification by the Attorney General that the defendant officer or employee was acting within the scope of his office or employment at the time of the incident out of which the action arose, any civil action or proceeding described in subsection (c) which is commenced in a State court shall be removed, without bond, at any time before trial, by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action shall be deemed an action brought against the United States under the provision of title 28 of the United States Code and all references thereto, and the United States shall be substituted as the party



defendant. The certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

(f) In any civil action or proceeding brought under this section, the United States shall have available all defenses heretofore available to the officer or employee whose act or omission gave rise to the claim, and all defenses to which it would have been entitled if the action had originally been commenced against the United States under section 1346(b) and sections 2671 through 2680 of title 28 of the United States Code, except that section 2680(k) shall not apply to any cause of action covered by this section.

(g) The Attorney General may compromise or settle any claim asserted in any such civil action or proceeding in the manner provided in section 2677 or title 28 of the United States Code, and with the same effect."

SEC. 802. The table of contents of Chapter 15 of title 50, United States Code, is amended to include the following caption:

"428. Personal Liability of Intelligence Community Personnel."

#### TITLE IX

#### GENERAL PROVISIONS

Section 901: No substantive change.

Section 902: No substantive change.

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DATE 5/2/06 BY 10322 JWD/21028/KWC

# Memorandum



To :

From :

Date 5/3/85

b7C

Subject : CIA ..

*BA*

~~*Encl*~~

8-APRIL 1985

The attached TERRORIST Review has been copy 155 received in the Records Section, appropriately initialed, and indicated for file. By use of instant transmittal memorandum, all necessary recording and indexing will be accomplished. It is to be noted this form is for internal use only within the Records Section, principally by the Routing Unit where bulky material not accompanied by memorandum is usually received.

The enclosure, if bulky and not usually filed with other papers in file, may be detached but this action should be clearly noted under the word "Enclosure."

Enc.

*(Circular stamp)*

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HEREIN IS UNCLASSIFIED  
DATE 8/2/06 BY 60322/UC/SP/DCJ/CWC

"ENCLOSURE ATTACHED"

DE-120

V-178

*62 80750-6328*

NOT RECORDED

12 MAY 3 1985

*6-6. [Signature]*

1- ENCLOSURE

005011 1985

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DATE *5/2/06* BY *60322 PAK/PP/PP/UC*

62-80750-6328 ENCLOSURE

EIA 366

106

NT.

TTY  
JH

MESSAGE RELAY VIA TELETYPE  
(RESTRICTED USE)

Date: 5-285 PRECEDENCE:  IMMEDIATE  PRIORITY  ROUTINE

FM: DIRECTOR, FBI

TO: FBI San Juan

- White House/WH/
- Bureau of Alcohol Tobacco Firearms/BATF/
- Central Intelligence Agency/CIA/
- CIA DCD/DCD/
- Dept. of Energy HQS/DOEHQ/
- Dept. of Energy Germantown DIV/DOE/
- Dept. of Justice/DOJ/
- Dept. of State/DOS/
- Dept. of the Army/DA/
- Dept. of Treasury/DOT/
- Defense Intelligence Agency/DIA/
- Director National Security Agency/NSA/
- Director Naval Investigative Service/DIRNAVINSERV/
- Drug Enforcement Admin./DEA/
- FAA Washington HQ/FAA/
- HQ AFOSI Bolling AFBDC/AFOSI/
- INSCOM Ft. Meade/INSCOM/
- Nuclear Regulatory Commission/NRC/
- U.S. Customs Service/UCS/
- U.S. Immigration & Naturalization Service/INS/
- U.S. Secret Service/USSS/
- Other: \_\_\_\_\_

BT

ALL FBI INFORMATION CONTAINED  
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DATE 8/31/06 BY 60220/pk/pjg/jwc

Classification: Secret

Addressee Internal Distribution

For: \_\_\_\_\_

Subject: CIA

178

See Attached

DF-198 62-80750-6329

Approved By: <u>OBR/</u>	Originator: [ ]	Tele Ext.:	Room/Div.: <u>4257-6</u>
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b7C

b2

044274

MAY 7 1985

57 JUL 9 1985

DO NOT FILE WITHOUT COMMUNICATIONS STAMP

RECEIVED  
2 APR 15 16z  
FEDERAL BUREAU  
OF INVESTIGATION

## USE AND PREPARATION OF FORM 0-73

### Restrictions on Use

1. Only incoming teletype messages within the categories listed in MIOG Section 16-1.7 pages 1251 & 1252 may be prepared using form 0-73.
2. Use of Form 0-73 is restricted to incoming teletype messages received at FBIHQ Communications Center within the last 72 hours.
3. Addressees must be Bureau Offices (LEGAT/Field) or other Government Agencies. **Geographical location must be indicated if other Government Agency is located outside the Washington, D.C. area.**
4. Editing of message text is restricted to typed or printed changes of a word or two. Changes to the existing text involving more than a word or two will require the originator to initiate a new message using Form 0-93. Administrative data may be added immediately following the text and must be identical for all addressees.
5. Teletype messages received by the Communications Center that do not meet the above criteria shall be returned to the originator for preparation using Form 0-93.

### Preparation of 0-73 Form (Yellow)

1. **Date & Precedence** - Type or print date and indicate precedence by checking the appropriate box.
2. **Addressee(s)** - Type or print addressee(s) immediately following the "TO:" or place a check mark in the appropriate box. Note: When using block "Other," indicate geographical location if addressee(s) is located outside Washington, D.C. If addressee(s) is a military installation, the name of the base, fort, or station must be listed to ensure delivery.
3. **Classification** - Type or print the classification and if appropriate the caveat and warning notices.
4. **Addressee Internal Distribution** - Complete when the originator wishes the message to be distributed to a known entity within a Headquarters Agency (i.e. Division, Section, Unit, etc.). List the addressee(s) abbreviation and the internal distribution, i.e. a message to Dept. of State, Dept. of Justice, and Defense Intelligence Agency; list on the "For" line(s) as follows:  
**Example:** For: DOS For SY/TAG; DOJ for Asst. AG Criminal Div.; DIA For DSOP.  
Messages which do not list internal distribution shall be delivered to the agency headquarters where their analyst will effect in-house distribution.
5. **Subject** - Type or print the subject in the space provided or check "see attached" if subject is identical to attached message.
6. **Originator's Boxes** - Type or print the originator's name, telephone extension, room number, and division.
7. **Approved By Box** - Indicate approval for transmission by initialing the approved by box. Note: The person approving the message is solely responsible for assuring all necessary editing changes are accurate and are legible.

### Preparation of Message To Be Transmitted

1. **Duplicate Copy & Notations** - Xerox 1 copy of the incoming teletype message. A notation shall be made on the original incoming teletype indicating one copy made for relay to SACS \_\_\_\_\_, (or LEGATS) \_\_\_\_\_, (or Government Agencies) \_\_\_\_\_.
  2. **Editing of Duplicate Copy (Heading)** - Using a lead pencil ONLY draw single lines through the first and last lines of the message heading; connect these lines from top right to bottom left forming a "Z" figure. **(Do Not Obliterate the Heading)**
  3. **Editing Changes to the Text** - (See Restrictions on Use, item 4)
  4. **Administrative Data** - Type or print administrative data immediately following the text.
- 5/9

62-80750-6332

**CHANGED TO**

62-77787-286-508X1

SEP 12 1985

NBH / NBH

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DATE 8/31/06 BY 60322/UC/ep/cwc

# Memorandum



Exec AD Adm. \_\_\_\_\_  
 Exec AD Inv. \_\_\_\_\_  
 Exec AD LES \_\_\_\_\_  
 Asst. Dir.:

- Adm. Servs. \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
- Ident. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Intell. \_\_\_\_\_
- Lab. \_\_\_\_\_
- Legal Coun. \_\_\_\_\_
- Off. Cong. & Public Affs. \_\_\_\_\_
- Rec. Mgnt. \_\_\_\_\_
- Tech. Servs. \_\_\_\_\_
- Training \_\_\_\_\_
- Telephone Rm. \_\_\_\_\_
- Director's Sec'y \_\_\_\_\_

To : Mr. Baker

Date 12/22/86

From : *ES/A* E. J. Sharp

Subject : DRAFT FISCAL YEAR 1988 INTELLIGENCE AUTHORIZATION BILL

Re memorandum of W. M. Baker to Mr. Sharp, dated 12/17/86, captioned as above.

**PURPOSE:** To respond to a request from the Congressional Affairs Office (CAO) to review and provide comments concerning the draft Fiscal Year 1988 Intelligence Authorization Bill.

**DETAILS:** The Administrative Services Division (ASD) has reviewed captioned Bill and has no comments except for Section 704 of the Bill.

The FBI has an Employee Relocation Services Program with home purchase provisions to assist the employee when he or she is unable to sell a residence at the old duty station. Under this program, transferred employees are eligible for up to 120 days of temporary quarters and can receive cash advances for temporary quarters and travel expenses to the new duty station. The employee's household goods and personal effects are moved to the new duty station under Government contract. Based on the features of this program, the employee does not have to use personal funds to advance or supplement the cost of transfer; therefore, the salary advance provision is not needed by the FBI. To implement a salary advance program would require additional manpower and administrative costs.

**RECOMMENDATION:** That CAO forward ASD's comments to the Central Intelligence Agency as appropriate.

APPROVED: \_\_\_\_\_  
 Director \_\_\_\_\_  
 Exec. AD-Adm. \_\_\_\_\_  
 Exec. AD-Inv. \_\_\_\_\_  
 Exec. AD-LES \_\_\_\_\_

62-80750-6636 X2

ALL INFORMATION CONTAINED  
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 DATE 8/21/01 BY 60264/1010/88

- 1 - Mr. Baker (Attn: SA [redacted])
- 1 - Mr. Sharp
- 1 - Mr. Brixey
- 1 - Mr. Rarity

GMD:pas (8)

22 SEP 15 1986



Date: February 3, 1987

To: Director  
Central Intelligence Agency

FEDERAL GOVERNMENT

Attention: Director, Office of  
Legislative Liaison

From: William H. Webster, Director

Subject: THE CENTRAL INTELLIGENCE AGENCY (CIA) DRAFT BILL,  
"INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1988"

Reference is made to the memorandum of John A. Rizzo, Deputy Director for Legislation, Office of Congressional Affairs, dated December 2, 1986, requesting comments on the first draft of the Intelligence Authorization Bill for Fiscal Year 1988.

We have reviewed your draft bill which will be forwarded to the Director of Central Intelligence for his review and approval prior to its submission to the Office of Management and Budget (OMB) for administration clearance. Some of the titles are routine in nature and others contain provisions which have been included in previous authorization bills. Title IV contains two provisions which are designed to improve the counterintelligence capabilities of the FBI. We support the draft bill with the following comments.

Section 704 of Title VII would amend Chapter 57 of Title 5, United States Code, to provide for an advance of pay of up to three months for an employee upon reassignment for permanent duty within the United States or its territories. The FBI has an Employee Relocation Services Program with home purchase provisions to assist the employee when he or she is unable to sell a residence at the old duty station. Under this program, transferred employees are eligible for up to 120 days of temporary quarters and can receive cash advances for temporary quarters and travel expenses to the new duty station. The employee's household goods and personal effects are moved to the new duty station under Government contract. Based on the features of this program, the employee does not have to use personal funds to advance or supplement the cost of transfer; therefore, the salary advance provision is not needed by the FBI. To implement a salary advance program would require additional

62-80750-6636X3

ENCLOSURE

15 OCT 9 1987

Exec AD Adm. — manpower and administrative costs for the FBI and therefore, we  
Exec AD Inv. — suggest that the legislation be made applicable to only those  
Exec AD LES — agencies which actively request its implementation.

- Asst. Dir.: *248*
- Adm. Servs. *148*
- Crim. Inv. *1* - Mr. Baker
- Ident. *1* - [redacted]
- Insp. *1* - Attention: [redacted]
- Intell. *1* - [redacted]
- Lab. *1* - [redacted]
- Legal Coun. *1* - Attention: [redacted]
- Off. Cong. & Public Affs. *1* - *WGS:mnc (10)*
- Rec. Mgnt. *1* - *mnc SEE NOTE PAGE TWO*
- Tech. Servs. *1* - [redacted]
- Training *1* - [redacted]
- Telephone Rm. *1* - [redacted]
- Director's Sec'y *1* - [redacted]

- 1 - Mr. Sharp
- Attention: [redacted]
- 1 - [redacted]
- 3 - [redacted]
- 1 - [redacted]
- SSA [redacted]

b7C

Room 7240, TL-245

Hand Delivered to DOJ, room 1135  
on 2/13/87 at 11:30 am/pm.  
Date communication sent 3/6/87 (OMB)

FBI/DOJ

Enclosure to Outgoing Letter to AAG dated 2/3/88

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 8/27/86 BY [redacted]

22 SEP 15 1988 MAIL ROOM

246

Director  
Central Intelligence Agency

Title IV, Section 402, of this draft bill contains a provision entitled "FBI Access to Tax Information for Counter-intelligence Purposes" which would provide the FBI with access to tax return information in foreign counterintelligence investigations upon a determination by the Attorney General or the Attorney General's designee that there is probable cause to believe that a taxpayer is a foreign power or the agent of a foreign power by amending Section 6103(i) of Title 26, United States Code. We continue to support the language of this provision even though the Internal Revenue Service (IRS) has thus far refused to concur in this provision. We, along with representatives of the Office of Intelligence Policy and Review, of the Department of Justice, are continuing to meet with representatives of IRS in the hope that an accommodation can be reached regarding this provision before this bill requires final OMB clearance.

NOTE: Comments based on Administrative Services Division (ASD) memorandum dated 12/22/86, discussions with special staff, INTD, David W. Wade, Assistant Section Chief, Technical Services Division (TSD), and contact with the General Counsel's office NSA. The draft bill also contains a proposed Section 702 entitled "Foreign Cryptographic Controls" of Title VII which would amend Chapter 3 of Title 10 by adding a new section on cryptographic security to provide statutory control over the introduction of foreign-manufactured cryptography to the United States Government and to regulate the access of United States Government cryptography by foreign owned, controlled, or influenced companies. This section further provides for statutory authority to promulgate regulations by the Secretary of Defense or, if he delegates his authority, to the Director of NSA. On 12/17/86, CAO contacted Ernest Myerfield, General Counsel's Office, NSA, who advised that this provision was not intended by NSA to change any current authority of the FBI but merely to codify National Security directive NSTD 145, which provides similar authority to the Director of NSA. Mr. Wade of TSD concurred with NSA's comments regarding this section believing that it would not effect any current authority of the FBI in the procurement or use of cryptographic equipment which is already regulated by TSD 145. The contents of this memorandum were orally provided to [redacted] OLA, DOJ, and [redacted] OLL, CIA, on 12/23/86.

APPROVED: Adm. Serv. [Signature] Laboratory \_\_\_\_\_  
Crim. Inv. \_\_\_\_\_ Legal Coun. \_\_\_\_\_  
NDM Director [Signature] Off. of Cong. & Public Affs. [Signature]  
Exec. AD-Adm. \_\_\_\_\_ Ident. \_\_\_\_\_ Rec. Mgnt. \_\_\_\_\_  
Exec. AD-Inv. \_\_\_\_\_ Inspection \_\_\_\_\_ Tech. Servs. [Signature]  
Exec. AD-LES \_\_\_\_\_ Intell. \_\_\_\_\_ Training \_\_\_\_\_

b7C

- 2 -

Hand delivered to DOJ, room 1135  
at 11:30 am/pm  
communication sent 3/6/87 (OMB)

FEDERAL GOVERNMENT

Assistant Attorney General  
Office of Legislative Affairs  
Attention: Mr. Jack Perkins

February 3, 1987

Director, FBI

THE CENTRAL INTELLIGENCE AGENCY (CIA) DRAFT BILL,  
"INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1988"

ACTION MEMORANDUM

The enclosed communication responds to a memorandum from the Deputy Director for Legislation, Office of Congressional Affairs, Central Intelligence Agency (CIA), dated December 2, 1986, requesting comments on the first draft of the Intelligence Authorization Bill for Fiscal Year 1988.

Please review this letter and forward it to the CIA. A copy is enclosed for your records.

Enclosure

- 1 - Mr. Rick Cinquegrana - Enclosure  
Deputy Counsel for Intelligence Policy  
Office of Intelligence Policy and Review

- 1 - Mr. Baker
- 1 - Mr. Bayse  
Attention: Mr. ~~Malachukowski~~ **D. W. Wade**
- 1 - Mr. Geer  
Attention: [Redacted]
- 1 - Mr. Sharp  
Attention: [Redacted]
- 1 - [Redacted]
- 3 - [Redacted]
- 1 - [Redacted]

APPROVED: \_\_\_\_\_

Director Widy

Exec. AD-Adm. \_\_\_\_\_

Exec. AD-Inv. \_\_\_\_\_

Exec. AD-LES \_\_\_\_\_

Adm. Servs. AS/AN

Crim. Inv. \_\_\_\_\_

Ident. \_\_\_\_\_

Inspection \_\_\_\_\_

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Legal Coun. \_\_\_\_\_

Off. of Cong. & Public Affs. MB

Rec. Mgnt. \_\_\_\_\_

Tech. Servs. \_\_\_\_\_

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SSA [Redacted]  
Room 7240, RD-245

62-80750-6636X4  
19 OCT 8

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DATE 8/2/01 BY 60322/epg/law

WES:mmc (10)  
mmc

1-ENCLOSURE

- Exec AD Adm. \_\_\_\_\_
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- Exec AD LES \_\_\_\_\_
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- Telephone Rm. \_\_\_\_\_
- Director's Sec'y \_\_\_\_\_

MAIL ROOM

[Redacted], room 1195

on 2/3/87 at 11:30 am/pm.

Date communication sent 3/6/87 (CMB)

22 SEP 15 1988

~~SECRET~~

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WHERE SHOWN OTHERWISE.

FEDERAL GOVERNMENT

May 14, 1985

BY LIAISON

*Presented 5/15/85  
JWC*



b1

Dear

On behalf of your friends and associates in the FBI, I would like to take this opportunity to congratulate you on your retirement. It has been brought to my attention that you have been of valuable assistance to the Bureau in a number of assignments, particularly during the past five years while serving as Chief of the Security Support Division. Your help and wholehearted cooperation have meant a great deal to us, and my colleagues share my appreciation for your efforts. We wish you and your family every happiness and the best of health in the future.

Sincerely,

DATE: 8/31/06  
CLASSIFIED BY: 60329/uc/lp/lpcat/kwc  
REASON: 1.4(C)  
DECLASSIFY ON: 8/31/2031

William H. Webster  
Director

~~CONFIDENTIAL~~  
DE-198

V-142

CONFIDENTIAL  
Classified by: 05  
Declassify on: OADR

*20750 6337*

CLASSIFICATION INFORMATION ON BUREAU COPIES ONLY. LETTER IS UNCLASSIFIED; HOWEVER, NOTE CONTAINS CONFIDENTIAL INFORMATION.

- AD Adm.
  - AD Inv.
  - AD LES
  - Dir.
  - Servs.
  - Inv.
- 1 - Mr. E. J. O'Malley



b7C

53 JUN 29 1985

~~SECRET~~

(SEE NOTE, PAGE 2)

MAIL ROOM

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FOIPA  
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No Duplication Fees are charged for Deleted Page Information Sheet(s).

Total Deleted Page(s) ~ 174

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Page 9 ~ b1, b3

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Page 11 ~ Referral/Direct

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