

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
1999

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OCTOBER 5, 1998.—Ordered to be printed
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Mr. GOSS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 3694]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694), to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1999”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follow:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 1998.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM**

Sec. 201. *Authorization of appropriations.*

TITLE III—GENERAL PROVISIONS

- Sec. 301. *Increase in employee compensation and benefits authorized by law.*
Sec. 302. *Restriction on conduct of intelligence activities.*
Sec. 303. *One-year extension of application of sanctions laws to intelligence activities.*
Sec. 304. *Sense of Congress on intelligence community contracting.*
Sec. 305. *Modification of national security education program.*
Sec. 306. *Requirement to direct competitive analysis of analytical products having
National importance.*
Sec. 307. *Annual reports to Congress.*
Sec. 308. *Quadrennial intelligence review.*
Sec. 309. *Designation of headquarters compound of Central Intelligence Agency as
the George Bush Center for Intelligence.*

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. *Enhanced protective authority for CIA personnel and family members.*
Sec. 402. *Authority for retroactive payment of specified special pay allowance.*
Sec. 403. *Technical amendments.*

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

- Sec. 501. *Extension of authority to engage in commercial activities as security for in-
telligence collection activities.*

**TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM
INVESTIGATIONS**

- Sec. 601. *Pen registers and trap and trace devices in foreign intelligence and inter-
national terrorism investigations.*
Sec. 602. *Access to certain business records for foreign intelligence and international
terrorism investigations.*
Sec. 603. *Conforming and clerical amendments.*
Sec. 604. *Wire and electronic communications interception requirements.*
Sec. 605. *Authority of Attorney General to accept voluntary services.*

**TITLE VII—WHISTLEBLOWER PROTECTION FOR INTELLIGENCE
COMMUNITY EMPLOYEES REPORTING URGENT CONCERNS TO CONGRESS**

- Sec. 701. *Short title; findings.*
Sec. 702. *Protection of intelligence community employees who report urgent concerns
to Congress.*

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 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 Department of Defense.*
- (3) The Defense Intelligence Agency.*
- (4) The National Security Agency.*
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.*
- (6) The Department of State.*
- (7) The Department of the Treasury.*
- (8) The Department of Energy.*
- (9) The Federal Bureau of Investigation.*
- (10) The National Reconnaissance Office.*
- (11) The National Imagery and Mapping Agency.*

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) *SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.*—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1999, 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 to accompany the conference report on the bill H.R. 3694 of the 105th Congress.

(b) *AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.*—The Schedule of Authorizations shall be made available to the Committees 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.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) *AUTHORITY FOR ADJUSTMENTS.*—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1999 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) *NOTICE TO INTELLIGENCE COMMITTEES.*—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 upon an exercise of the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1999 the sum of \$129,123,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Advanced Technology Group shall remain available until September 30, 2000.

(b) *AUTHORIZED PERSONNEL LEVELS.*—The elements within the Community Management Account of the Director of Central Intelligence are authorized 283 full-time personnel as of September 30, 1999. Personnel serving in such elements may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) *CLASSIFIED AUTHORIZATIONS.*—

(1) *AUTHORIZATION OF APPROPRIATIONS.*—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 1999 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2000.

(2) *AUTHORIZATION OF PERSONNEL.*—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 1999, there is authorized such additional personnel for such elements as of that date as is specified in the classified Schedule of Authorizations.

(d) *REIMBURSEMENT.*—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 1999, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within the Community Management Account 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.

(e) *NATIONAL DRUG INTELLIGENCE CENTER.*—

(1) *IN GENERAL.*—Of the amount appropriated pursuant to the authorization in subsection (a), the amount of \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2000, and funds provided for procurement purposes shall remain available until September 30, 2001.

(2) *TRANSFER OF FUNDS.*—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) *LIMITATION.*—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) *AUTHORITY.*—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

(f) *TRANSFER AUTHORITY FOR FUNDS FOR SECURITY REQUIREMENTS AT OVERSEAS LOCATIONS.*—

(1) *IN GENERAL.*—Of the amount appropriated pursuant to the authorization in subsection (a), the Director of Central Intelligence may transfer funds to departments or other agencies for the sole purpose of supporting certain intelligence community security requirements at overseas locations, as specified by the Director.

(2) *LIMITATION.*—Amounts made available for departments or agencies under paragraph (1) shall be—

(A) transferred to the specific appropriation;

(B) allocated to the specific account in the specific amount, as determined by the Director;

(C) merged with funds in such account that are available for architectural and engineering support expenses at overseas locations; and

(D) available only for the same purposes, and subject to the same terms and conditions, as the funds described in subparagraph (C).

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998.

(a) *AUTHORIZATION.*—Amounts authorized to be appropriated for fiscal year 1998 under section 101 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the following:

(1) An emergency supplemental appropriation in title I of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174).

(2) An emergency supplemental appropriation in a supplemental appropriations Act for fiscal year 1998 that is enacted after September 28, 1998, for such amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) *RATIFICATION.*—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of those amounts deemed to have been specifically authorized by Congress in the Act referred to in subsection (a)(1) and in the supplemental appropriations Act referred to in subsection (a)(2) is hereby ratified and confirmed.

**TITLE II—CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM**

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1999 the sum of \$201,500,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

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 compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

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 the laws of the United States.

SEC. 303. ONE-YEAR EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out “January 6, 1999” and inserting in lieu thereof “January 6, 2000”.

SEC. 304. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

SEC. 305. MODIFICATION OF NATIONAL SECURITY EDUCATION PROGRAM.

(a) **ASSISTANCE FOR COUNTERPROLIFERATION STUDIES.**—*The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended as follows:*

(1) *Section 801 (50 U.S.C. 1901) is amended by inserting “counterproliferation studies,” after “area studies,” in subsections (b)(7) and (c)(2).*

(2) *Section 802 (50 U.S.C. 1902) is amended—*

(A) *in subsection (a), by inserting “counterproliferation studies,” after “area studies,” in paragraphs (1)(B)(i), (1)(C), and (4); and*

(B) *in subsection (b)(2), by inserting “counterproliferation study,” after “area study,” in subparagraphs (A)(ii) and (B)(ii).*

(3) *Section 803 (50 U.S.C. 1903) is amended by striking out “and area” in subsections (b)(8) and (d)(4) and inserting in lieu thereof “area, and counterproliferation”.*

(4) *Section 806(b)(1) (50 U.S.C. 1906(b)(1)) is amended by striking out “and area” and inserting in lieu thereof “area, and counterproliferation”.*

(b) **REVISION OF MEMBERSHIP OF NATIONAL SECURITY EDUCATION BOARD.**—*Section 803(b)(6) of such Act (50 U.S.C. 1903(b)(6)) is amended to read as follows:*

“(6) The Secretary of Energy.”.

SEC. 306. REQUIREMENT TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) *by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and*

(2) *by inserting after subparagraph (C) the following new subparagraph (D):*

“(D) direct competitive analysis of analytical products having National importance.”.

SEC. 307. ANNUAL REPORTS TO CONGRESS.

(a) **ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF CENTRAL INTELLIGENCE.**—*Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:*

“ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF CENTRAL
INTELLIGENCE

“SEC. 114. (a) *REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH FEDERAL LAW ENFORCEMENT AGENCIES.*—(1) *Not later than December 31 of each year, the Director of Central Intelligence shall submit to the congressional intelligence committees and the congressional leadership a report describing the nature and extent of cooperation and assistance provided by the intelligence community to Federal law enforcement agencies with respect to efforts to stop the illegal importation into the United States of controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) that are included in schedule I or II under part B of such Act.*

“(2) *Each such report shall include a discussion of the following:*

“(A) *Illegal importation of such controlled substances through transit zones such as the Caribbean Sea and across the southwest and northern borders of the United States.*

“(B) *Methodologies used for such illegal importation.*

“(C) *Additional routes used for such illegal importation.*

“(D) *Quantities of such controlled substances transported through each route.*

“(3) *Each such report may be prepared in classified form, unclassified form, or unclassified form with a classified annex.*

“(b) *ANNUAL REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.*—(1) *The Director of Central Intelligence shall, on an annual basis, submit to the congressional intelligence committees and the congressional leadership an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.*

“(2) *Each such report shall include a discussion of the following:*

“(A) *The ability of the Government of Russia to maintain its nuclear military forces.*

“(B) *The security arrangements at civilian and military nuclear facilities in Russia.*

“(C) *The reliability of controls and safety systems at civilian nuclear facilities in Russia.*

“(D) *The reliability of command and control systems and procedures of the nuclear military forces in Russia.*

“(3) *Each such report shall be submitted in unclassified form, but may contain a classified annex.*

“(c) *DEFINITIONS.—In this section:*

“(1) *The term ‘congressional intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.*

“(2) *The term ‘congressional leadership’ means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.”*

(b) **CLERICAL AMENDMENT.**—*The table of contents in the first section of such Act is amended by inserting after the item relating to section 113 the following new item:*

“Sec. 114. Additional annual reports from the Director of Central Intelligence.”.

(c) **DATE FOR FIRST REPORT ON COOPERATION WITH CIVILIAN LAW ENFORCEMENT AGENCIES.**—*The first report under section 114(a) of the National Security Act of 1947, as added by subsection (a), shall be submitted not later than December 31, 1999.*

SEC. 308. QUADRENNIAL INTELLIGENCE REVIEW.

(a) **SENSE OF CONGRESS.**—*It is the sense of Congress—*

(1) *that the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every four years thereafter, a comprehensive review of United States intelligence programs and activities, with each such review—*

(A) *to include assessments of intelligence policy, resources, manpower, organization, and related matters; and*

(B) *to encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;*

(2) *that the results of each review should be shared with the appropriate committees of Congress and the congressional leadership; and*

(3) *that the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the appropriate committees of Congress and the congressional leadership from individuals in the private sector) in order to—*

(A) *assess each review under paragraph (1);*

(B) *conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and*

(C) *make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).*

(b) **REPORT.**—(1) *Not later than December 1, 1998, the Director of Central Intelligence and the Secretary of Defense shall jointly submit to the committees specified in paragraph (2) the views of the Director and the Secretary regarding—*

(A) *the potential value of conducting quadrennial intelligence reviews as described in subsection (a)(1); and*

(B) *the potential value of assessments of such reviews as described in subsection (a)(3)(A).*

(2) *The committees referred to in paragraph (1) are the following:*

(A) *The Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate.*

(B) *The Permanent Select Committee on Intelligence, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.*

SEC. 309. DESIGNATION OF HEADQUARTERS COMPOUND OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE BUSH CENTER FOR INTELLIGENCE.

(a) *DESIGNATION.*—*The headquarters compound of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the “George Bush Center for Intelligence”.*

(b) *REFERENCES.*—*Any reference in a law, map, regulation, document, paper, or other record of the United States to the headquarters compound referred to in subsection (a) shall be deemed to be a reference to the “George Bush Center for Intelligence”.*

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ENHANCED PROTECTIVE AUTHORITY FOR CIA PERSONNEL AND FAMILY MEMBERS.

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended by striking out “and the protection of Agency personnel and of defectors, their families,” and inserting in lieu thereof “and the protection of current and former Agency personnel and their immediate families, defectors and their immediate families,”.

SEC. 402. AUTHORITY FOR RETROACTIVE PAYMENT OF SPECIFIED SPECIAL PAY ALLOWANCE.

(a) *AUTHORIZATION.*—*The Director of Central Intelligence may make payments with respect to the period beginning on January 30, 1998, and ending on April 7, 1998, of the special pay allowance described in the Central Intelligence Agency notice dated April 7, 1998 (notwithstanding the otherwise applicable effective date for such payments of April 7, 1998).*

(b) *FUNDS AVAILABLE.*—*Payments authorized by subsection (a) may be made from amounts appropriated for the Central Intelligence Agency for fiscal year 1998 or for fiscal year 1999.*

SEC. 403. TECHNICAL AMENDMENTS.

(a) *CENTRAL INTELLIGENCE AGENCY ACT OF 1949.*—*The Central Intelligence Agency Act of 1949 is amended as follows:*

(1) *Section 5(a)(1) (50 U.S.C. 403f(a)(1)) is amended—*

(A) *by striking out “subparagraphs (B) and (C) of section 102(a)(2)” and inserting in lieu thereof “paragraphs (2) and (3) of section 102(a)”;*

(B) *by striking out “(c)(5)” and inserting in lieu thereof “(c)(6)”;*

(C) *by inserting “(3),” after “403(a)(2),”;*

(D) *by inserting “(c)(6), (d)” after “403–3”;* and

(E) *by inserting “(a), (g)” after “403–4”.*

(2) *Section 6 (50 U.S.C. 403g) is amended by striking out “(c)(5)” each place it appears and inserting in lieu thereof “(c)(6)”.*

(b) *CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.*—*Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking out “section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))” and inserting in*

lieu thereof “paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c))”.

**TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE
ACTIVITIES**

SEC. 501. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended by striking out “December 31, 1998” and inserting in lieu thereof “December 31, 2000”.

**TITLE VI—FOREIGN INTELLIGENCE AND
INTERNATIONAL TERRORISM INVESTIGATIONS**

SEC. 601. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

- (1) by redesignating title IV as title VI and section 401 as section 601, respectively; and
- (2) by inserting after title III the following new title:

**“TITLE IV—PEN REGISTERS AND TRAP AND TRACE
DEVICES FOR FOREIGN INTELLIGENCE PURPOSES**

“DEFINITIONS

“SEC. 401. As used in this title:

“(1) The terms ‘foreign power’, ‘agent of a foreign power’, ‘international terrorism’, ‘foreign intelligence information’, ‘Attorney General’, ‘United States person’, ‘United States’, ‘person’, and ‘State’ shall have the same meanings as in section 101 of this Act.

“(2) The terms ‘pen register’ and ‘trap and trace device’ have the meanings given such terms in section 3127 of title 18, United States Code.

“(3) The term ‘aggrieved person’ means any person—

“(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or

“(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

**“PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN
INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS**

“SEC. 402. (a)(1) Notwithstanding any other provision of law, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Investiga-

tion under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

“(2) The authority under paragraph (1) is in addition to the authority under title I of this Act to conduct the electronic surveillance referred to in that paragraph.

“(b) Each application under this section shall be in writing under oath or affirmation to—

“(1) a judge of the court established by section 103(a) of this Act; or

“(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap or trace device on behalf of a judge of that court.

“(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

“(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

“(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

“(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

“(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

“(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.

“(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

“(2) An order issued under this section—

“(A) shall specify—

“(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

“(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

“(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

and
“(II) the number and, if known, physical location of the telephone line; and

“(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

“(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

“(II) the number of the instrument or device; and

“(B) shall direct that—

“(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

“(ii) such provider, landlord, custodian, or other person—

“(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

“(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and

“(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

“(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

“(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

“(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

“AUTHORIZATION DURING EMERGENCIES

“SEC. 403. (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

“(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

“(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

“(b) A determination under this subsection is a reasonable determination by the Attorney General that—

“(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

“(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

“(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

“(A) when the information sought is obtained;

“(B) when the application for the order is denied under section 402 of this Act; or

“(C) 48 hours after the time of the authorization by the Attorney General.

“(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers

or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

“AUTHORIZATION DURING TIME OF WAR

“SEC. 404. Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

“USE OF INFORMATION

“SEC. 405. (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

“(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

“(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

“(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

“(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

“(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, depart-

ment, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

“(A) the information was unlawfully acquired; or

“(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

“(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

“(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

“(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

“(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

“(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

“(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

“CONGRESSIONAL OVERSIGHT

“SEC. 406. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

“(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

“(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

“(2) the total number of such orders either granted, modified, or denied.”.

SEC. 602. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 601 of this Act, is further amended by inserting after title IV, as added by such section 601, the following new title:

“TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

“DEFINITIONS

“SEC. 501. As used in this title:

“(1) The terms ‘foreign power’, ‘agent of a foreign power’, ‘foreign intelligence information’, ‘international terrorism’, and ‘Attorney General’ shall have the same meanings as in section 101 of this Act.

“(2) The term ‘common carrier’ means any person or entity transporting people or property by land, rail, water, or air for compensation.

“(3) The term ‘physical storage facility’ means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

“(4) The term ‘public accommodation facility’ means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

“(5) The term ‘vehicle rental facility’ means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

“ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

“SEC. 502. (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

“(b) Each application under this section—

“(1) shall be made to—

“(A) a judge of the court established by section 103(a) of this Act; or

“(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

“(2) shall specify that—

“(A) the records concerned are sought for an investigation described in subsection (a); and

“(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

“(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

“(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

“(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

“(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

“CONGRESSIONAL OVERSIGHT

“SEC. 503. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence

of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

“(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

“(1) the total number of applications made for orders approving requests for records under this title; and

“(2) the total number of such orders either granted, modified, or denied.”.

SEC. 603. CONFORMING AND CLERICAL AMENDMENTS.

(a) **CONFORMING AMENDMENT.**—Section 601 of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 601(1) of this Act, is amended by striking out “other than title III” and inserting in lieu thereof “other than titles III, IV, and V”.

(b) **CLERICAL AMENDMENT.**—The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 is amended by striking out the items relating to title IV and section 401 and inserting in lieu thereof the following:

“TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

“401. Definitions.

“402. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations.

“403. Authorization during emergencies.

“404. Authorization during time of war.

“405. Use of information.

“406. Congressional oversight.

“TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

“501. Definitions.

“502. Access to certain business records for foreign intelligence and international terrorism investigations.

“503. Congressional oversight.

“TITLE VI—EFFECTIVE DATE

“601. Effective date.”.

SEC. 604. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION REQUIREMENTS.

(a) **IN GENERAL.**—Section 2518(11)(b) of title 18, United States Code, is amended—

(1) in clause (ii), by striking “of a purpose” and all that follows through the end of such clause and inserting “that there is probable cause to believe that the person’s actions could have the effect of thwarting interception from a specified facility;”;

(2) in clause (iii), by striking “such purpose” and all that follows through the end of such clause and inserting “such showing has been adequately made; and”; and

(3) by adding at the end the following clause:

“(iv) the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument

through which such communication will be or was transmitted.”.

(b) **CONFORMING AMENDMENTS.**—Section 2518(12) of title 18, United States Code, is amended—

- (1) by inserting “(a)” after “by reason of subsection (11)”;
- (2) by striking “the facilities from which, or”;
- (3) by striking the comma following “where”.

SEC. 605. AUTHORITY OF ATTORNEY GENERAL TO ACCEPT VOLUNTARY SERVICES.

Section 524(d)(1) of title 28, United States Code, is amended by inserting “or services” after “property”.

TITLE VII—WHISTLEBLOWER PROTECTION FOR INTELLIGENCE COMMUNITY EMPLOYEES REPORTING URGENT CONCERNS TO CONGRESS

SEC. 701. SHORT TITLE; FINDINGS.

(a) **SHORT TITLE.**—This title may be cited as the “Intelligence Community Whistleblower Protection Act of 1998”.

(b) **FINDINGS.**—The Congress finds that—

- (1) national security is a shared responsibility, requiring joint efforts and mutual respect by Congress and the President;
- (2) the principles of comity between the Branches of Government apply to the handling of national security information;
- (3) Congress, as a co-equal Branch of Government, is empowered by the Constitution to serve as a check on the Executive Branch; in that capacity, it has a “need to know” of allegations of wrongdoing within the Executive Branch, including allegations of wrongdoing in the Intelligence Community;
- (4) no basis in law exists for requiring prior authorization of disclosures to the intelligence committees of Congress by employees of the Executive Branch of classified information about wrongdoing within the Intelligence Community;
- (5) the risk of reprisal perceived by employees and contractors of the Intelligence Community for reporting serious or flagrant problems to Congress may have impaired the flow of information needed by the intelligence committees to carry out oversight responsibilities; and
- (6) to encourage such reporting, an additional procedure should be established that provides a means for such employees and contractors to report to Congress while safeguarding the classified information involved in such reporting.

SEC. 702. PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.

(a) **INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.**—

(1) **IN GENERAL.**—Subsection (d) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended by adding at the end the following new paragraph:

“(5)(A) An employee of the Agency, or of a contractor to the Agency, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

“(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the Director.

“(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the Director considers appropriate.

“(D)(i) If the Inspector General does not transmit, or does not transmit in an accurate form, the complaint or information described in subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

“(ii) The employee may contact the intelligence committees directly as described in clause (i) only if the employee—

“(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the intelligence committees directly; and

“(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

“(iii) A member or employee of one of the intelligence committees who receives a complaint or information under clause (i) does so in that member or employee’s official capacity as a member or employee of that committee.

“(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

“(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

“(G) In this paragraph:

“(i) The term ‘urgent concern’ means any of the following:

“(I) A serious or flagrant problem, abuse, violation of law or executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

“(II) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

“(III) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (e)(3)(B) in response to an employee’s reporting an urgent concern in accordance with this paragraph.

“(ii) The term ‘intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”.

(2) CLERICAL AMENDMENT.—The heading to subsection (d) of such section is amended by inserting “; REPORTS TO CONGRESS ON URGENT CONCERNS” before the period.

(b) ADDITIONAL PROVISIONS WITH RESPECT TO INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—

(1) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating section 8H as section 8I and by inserting after section 8G the following new section:

“SEC. 8H. (a)(1)(A) An employee of the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, or the National Security Agency, or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Defense (or designee).

“(B) An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Justice (or designee).

“(C) Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the appropriate Inspector General (or designee) under this Act or section 17 of the Central Intelligence Agency Act of 1949.

“(2) If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint or information to the Inspector General within 7 calendar days of receipt.

“(b) Not later than the end of the 14-calendar day period beginning on the date of receipt of an employee complaint or information under subsection (a), the Inspector General shall determine whether the complaint or information appears credible. If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the head of the establishment.

“(c) Upon receipt of a transmittal from the Inspector General under subsection (b), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the head of the establishment considers appropriate.

“(d)(1) If the Inspector General does not transmit, or does not transmit in an accurate form, the complaint or information described in subsection (b), the employee (subject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

“(2) *The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee—*

“(A) *before making such a contact, furnishes to the head of the establishment, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the intelligence committees directly; and*

“(B) *obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.*

“(3) *A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee’s official capacity as a member or employee of that committee.*

“(e) *The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.*

“(f) *An action taken by the head of an establishment or an Inspector General under this section shall not be subject to judicial review.*

“(g) *In this section:*

“(1) *The term ‘urgent concern’ means any of the following:*

“(A) *A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.*

“(B) *A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.*

“(C) *An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under section 7(c) in response to an employee’s reporting an urgent concern in accordance with this section.*

“(2) *The term ‘intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”.*

(2) *CONFORMING AMENDMENT.—Section 8I of such Act (as redesignated by paragraph (1)) is amended by striking out “or 8E” and inserting in lieu thereof “8E, or 8H”.*

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER GOSS,
BILL YOUNG,
JERRY LEWIS,
BUD SHUSTER,

BILL MCCOLLUM,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
CHARLES F. BASS,
JIM GIBBONS,
NORMAN D. DICKS,
JULIAN C. DIXON,
DAVID E. SKAGGS,
NANCY PELOSI,
JANE HARMAN,
IKE SKELTON,
SANFORD D. BISHOP, Jr.,

From the Committee on National Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

FLOYD SPENCE,
BOB STUMP,
LORETTA SANCHEZ,

Managers on the Part of the House.

RICHARD SHELBY,
JOHN H. CHAFEE,
DICK LUGAR,
MIKE DEWINE,
JON KYL,
JIM INHOFE,
ORRIN G. HATCH,
PAT ROBERTS,
WAYNE ALLARD,
DAN COATS,
BOB KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
CHUCK ROBB,
FRANK R. LAUTENBERG,
CARL LEVIN,

From the Committee on Armed Services:

STROM THURMOND,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and the intelligence-related activities of the United States government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The managers agree that the congressionally directed actions described in the House bill, the Senate amendment, the respective committee reports, or classified annexes should be undertaken to the extent that such congressionally directed actions are not amended, altered, or otherwise specifically addressed in either this Joint Explanatory Statement or in the classified annex to the conference report on the bill H.R. 3694.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION FOR APPROPRIATIONS

Section 101 of the conference report 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 1999. Section 101 is identical to section 101 of the House bill and section 101 of the Senate amendment.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 1999 are contained in a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated into the Act by this section. The classified annex provides the details of the Schedule, including a cost cap

to the five year and ten year costs of the Future Imagery Architecture. Section 102 is identical to section 102 of the House bill and section 102 of the Senate amendment.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1999 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The Director of Central Intelligence may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the intelligence committees of the Congress.

The managers emphasize that the authority conferred by section 103 is not intended to permit the wholesale raising of personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The managers do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill. Section 103 is identical to section 103 of the House bill and section 103 of the Senate amendment.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT

Section 104 of the conference report authorizes appropriations for the Community Management Account (CMA) of the Director of Central Intelligence (DCI) and sets the personnel end-strength for the Intelligence Community management staff for fiscal year 1999.

Subsection (a) authorizes appropriations of \$129,123,000 for fiscal year 1999 for the activities of the CMA of the DCI. This amount includes funds identified for the Advanced Research and Development Committee and the Advanced Technology Group, which shall remain available until September 30, 2000. Beginning in fiscal year 1999, the Environmental Intelligence and Applications Program will be funded through the DCI's Environmental Center, rather than through this account.

Subsection (b) authorizes 283 full-time personnel for the Community Management Staff for fiscal year 1999 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations and permits these additional amounts to remain available through September 30, 2000.

Subsection (d) requires, except as provided in Section 113 of the National Security Act of 1947, or for temporary situations of

less than one year, that personnel from another element of the United States government be detailed to an element of the CMA on a reimbursable basis.

Subsection (e) authorizes \$27,000,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) is identical to subsection (e) of the House bill and subsection (e) of the Senate amendment. The Senate, in its report on this provision, would have fenced the entire \$27,000,000 until the Office of National Drug Control Policy (ONDCP) issued its overdue report on the National Counter-Narcotics Architecture Review, which was directed by Congress to be completed by April 1, 1998. The House had no such fence. While the managers continue to require the prompt production of this report, they do not wish to impede any part of the government's counter-narcotics efforts. Consequently, the Senate recedes.

The failure of the Director of the ONDCP to comply with a congressional requirement for this report is of concern.

The managers strongly believe that the NDIC should be the facility that brings together all law enforcement and intelligence information for integrated, all-source, cross-case analysis. The continued isolation of domestic and foreign aspects of the drug trafficking organizations for separate analysis by different intelligence centers ignores the transnational character of the drug trafficking threat to national security. The Architecture Review should analyze the ability and capacity of NDIC to serve as the focal point for integrated analysis of foreign and domestic law enforcement information combined with foreign intelligence information.

Subsection (f) authorizes the DCI to transfer funds to be appropriated to the CMA for fiscal year 1999 to the Department of State for specific purposes to be identified by the Director. The House bill contained a similar provision. The Senate amendment contained no such provision. The Senate agrees with the House position.

The managers identified a shortfall in certain Intelligence Community security arrangements at certain overseas locations. The State Department has been aware of these shortcomings for some time, but claims it lacks resources to fund improvements. Thus, in order to alleviate the Intelligence Community security concerns at those locations, the transfer authority is provided.

This section allows the DCI to transfer funds from the CMA only for the specific purposes, and in the specific amounts, listed in the Classified Annex to this Joint Explanatory Statement. Clearly, however, the managers do not intend this section to create any new budget authority. Rather, it is intended that the funds to be transferred will derive from those funds to be appropriated to the CMA for fiscal year 1999.

The managers only agreed to this grant of authority with the firm expectation that this will be a one-time action only. This authority will expire at the end of fiscal year 1999. This transfer authority is only being authorized to insure that the State Department will immediately, in fiscal year 1999, begin architectural and engineering security support at various overseas locations. Without this immediate transfer authority, the Intelligence Community would be required to rely on practices that are flawed, as well as being extremely costly.

The managers acknowledge that the Intelligence Community has worked hard over the past two years with the State Department, the Defense Department, and the Office of Management and Budget to provide a permanent solution to the situation at issue. The Intelligence Community, in response to the seriousness of the hostile intelligence threat directed at United States interests, agreed to a one-time special cost-sharing arrangement in fiscal year 1999 to alleviate any continued concern.

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES

Section 105 specifically authorizes, for purposes of section 504 of the National Security Act of 1947, those intelligence and intelligence-related activities that were deemed to have been authorized, pursuant to that section, through the 1998 Supplemental Appropriations and Rescissions Act (P.L. 105-174) and any supplemental appropriations that are expected to contain emergency appropriations for fiscal year 1998. Neither the House bill, nor the Senate amendment, contained these provisions. The managers agreed to include this provision based on the requirements of section 504 of the National Security Act of 1947.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Section 201 is identical to section 201 of the Senate amendment and section 201 of the House bill.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

Section 301 is identical to section 301 of the Senate amendment and section 301 of the House bill.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Section 302 is identical to section 302 of the Senate amendment and section 302 of the House bill.

SEC. 303. ONE-YEAR EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

Section 303 of the conference report extends until January 6, 2000 the authority granted by section 303 of the Intelligence Authorization Act for Fiscal Year 1996 for the President to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action when the President determines and reports to Congress that to proceed without delay would seriously risk the compromise of an intelligence source or method, or an ongoing criminal investigation. Section 303 is identical to section 303 of the House bill and section 303 of the Senate amendment.

SEC. 304. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY
CONTRACTING

Section 304 expresses the sense of the Congress that the Director of Central Intelligence should continue to direct elements of the Intelligence Community to award contracts in a manner that would maximize the procurement of products produced in the United States, when such action is compatible with the national security interests of the United States, consistent with operational and security concerns, and fiscally sound. A provision similar to section 304 has been included in previous intelligence authorization acts. The Senate bill had no similar provision. The Senate agrees with the House position.

SEC. 305. MODIFICATION OF NATIONAL SECURITY EDUCATION PROGRAM

A provision similar to section 305 was included in the Senate amendment. The House bill contained no such provision. The House agrees to the Senate provision.

SEC. 306. REQUIREMENT TO DIRECT COMPETITIVE ANALYSIS OF
ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE

Section 306 amends section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. § 403(g)(2)) to add an additional duty for the Assistant Director of Central Intelligence for Analysis and Production (ADCI/AP), namely to direct competitive analysis of analytical products having national importance. The Senate amendment contained a provision identical to section 306. The House bill had no similar provision. The House recedes to the Senate provision.

Since the end of the Cold War and in response to budget pressures, the Intelligence Community has experienced a significant decrease in personnel. While this has had the positive effect of increasing efficiency in some areas, in other areas shortfalls are beginning to appear. Such a shortfall is in the use of competitive analysis.

During the Cold War competitive analysis played a crucial role in assuring that intelligence analysts did not become accustomed to accepting the same assumptions. Instead, analysts from different agencies and outside experts would routinely challenge each other's analysis. This decreased the opportunity for some elements within the community to become victims of their own prejudices and biases. Analysts were forced to defend their assumptions, logic, and analytical judgments against competing analysis from other agencies. Personnel reductions, however, made this routine competitive analysis a luxury that no longer was affordable in the downsizing of the early to mid-1990's.

Independent reports by retired Admiral David Jeremiah and the former Secretary of Defense Donald Rumsfeld led to the conclusion that the absence of competitive analysis contributed to an incomplete explanation of the activities of several foreign powers. This resulted in conclusions not helpful in the policy-making process. In an era of declining resources, it is more important than ever that issues of great significance be subjected to independent analysis both from within and without the Intelligence Community.

The managers believe it is important for the Director of Central Intelligence to institutionalize formally the practice of competitive analysis and direct that the responsibility be assigned to the ADCI/AP.

The managers further direct the ADCI/AP to report to the intelligence committees by March 15, 1999, his plan for fulfilling the responsibility now assigned to him under section 403 of the National Security Act of 1947 as part of this legislation.

SEC. 307. ANNUAL REPORTS TO CONGRESS

Section 307 requires the Director of Central Intelligence to report to the Congress of the United States on an annual basis on two significant issues faced by this country. The first report should address the nature and extent of cooperation between the Intelligence Community and federal law enforcement agencies in combating drug trafficking.

The second report should address the safety and security of Russian nuclear facilities and nuclear military forces.

The House bill contained a provision similar to section 307(a). The Senate amendment had no such provision. The Senate agrees to the House position, with respect to the drug trafficking report. The Senate amendment contained a provision similar to section 307(b), which the House bill did not contain. The House agrees to the Senate position regarding the report on Russian nuclear facilities and nuclear military forces.

SEC. 308. QUADRENNIAL INTELLIGENCE REVIEW

Section 308 is similar to a "Sense of Congress" provision contained within the Senate amendment. The House bill contained no such provision. The House recedes to the Senate provision, as modified.

SEC. 309. DESIGNATION OF HEADQUARTERS COMPOUND OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE BUSH CENTER FOR INTELLIGENCE

The Senate amendment contained a provision to designate the headquarters building of the Central Intelligence Agency (CIA) in Langley, Virginia, as the "George Herbert Walker Bush Center for Central Intelligence." The House bill contained no similar provision. The House did, however, pass by voice vote on August 3, 1998, a bill (H.R. 3821) to designate the CIA headquarters compound as the "George H.W. Bush Center for Central Intelligence." The managers agreed to the Senate provision with modifications.

Section 309 will designate the CIA headquarters compound at Langley, Virginia as the "George Bush Center for Intelligence."

Former President George Bush has dedicated much of his life to public service. During World War II, he flew for the Navy in the Pacific Theater. In 1967, George Bush was elected to the House of Representatives. He later served as Ambassador to the United Nations. Following that assignment, George Bush was appointed Chief of the U.S. Liaison Office to the People's Republic of China.

In January 1976, George Bush was appointed Director of Central Intelligence (DCI) by then-President Gerald Ford. He held this

position through the end of the Ford Administration. Although his tenure as DCI was relatively short, it came at a time when the U.S. Intelligence Community was undergoing increasing public scrutiny and some criticism.

As DCI, George Bush brought innovation to the CIA, and dramatically improved the morale within the Agency. George Bush demonstrated leadership and integrity at a time when both were desperately needed to help restore confidence in the CIA and the other intelligence elements that make up the Intelligence Community.

Currently, the headquarters compound does not have a formal designation. The managers agreed that this designation would be a fitting tribute to the only DCI to become President of the United States. It is appropriate to memorialize George Bush's integrity, work ethic, and dedication to public service in this manner.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ENHANCED PROTECTIVE AUTHORITY FOR CIA PERSONNEL AND FAMILY MEMBERS

Section 401 is identical to a provision contained in the House bill. The Senate amendment did not include such a provision. The Senate agrees to the House position.

SEC. 402. AUTHORITY FOR RETROACTIVE PAYMENT OF SPECIFIED SPECIAL PAY ALLOWANCE

Neither the House bill, nor the Senate amendment contained a provision similar to section 402. The managers agree, however, to include this provision to enable the Director of Central Intelligence to provide retroactively a special pay allowance to certain Intelligence Community officers, who, because of a bureaucratic error, did not receive a special pay allowance at the time they were otherwise eligible to receive it. It was through no fault of their own that this special pay allowance was not administered at the time it was due and owing, but rather simply caused by a bureaucratic miscue.

SEC. 403. TECHNICAL AMENDMENTS

Both the House bill and the Senate amendment contained a similar provision. The Senate recedes to the House position, with technical modifications.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES

Both the House bill and the Senate amendment contained similar provisions. The House recedes to the Senate provision.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 602. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 603. CONFORMING AND CLERICAL AMENDMENTS

The Senate amendment contained a similar provision. The House bill did not. The House recedes to the Senate position.

SEC. 604. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION REQUIREMENTS

This provision amends section 2518 of title 18, United States Code, to allow federal judges to issue an order on the conversations of a specific person, rather than on the conversations that occur on a specific telephone. This provision is identical to H.R. 3753, with a technical correction, which was introduced in the House by Mr. McCollum, Mr. Hyde, Mr. Conyers, and Mr. Schumer.

Under current law, judges issue wiretap orders authorizing law enforcement officials to place a wiretap on a specific telephone number. Criminals, including terrorists and spies, know this and often try to avoid wiretaps by using pay telephones on the street at random, or by using stolen or cloned cell telephones. As law enforcement officials cannot know the numbers of these telephones in advance, they are unable to obtain a wiretap order on these numbers from a judge in time to intercept the conversation, and the criminal is able to evade interception of his communication.

This provision addresses this problem by authorizing judges to issue an order authorizing the interception of all communications made by a particular person, regardless of what telephone he may use. The provision does not change the existing law that requires law enforcement officials to show that there is probable cause to believe that the suspect has committed, or may commit, a crime. With this amendment, law enforcement officials will be required to show that there is probable cause to believe that the actions of the suspect could have the effect of thwarting a wiretap on a specific telephone were the court to order the more typical method of wiretap, which targets a specific telephone number.

With this provision, law enforcement officials will be able to follow a criminal suspect and ask the telephone company to activate a wiretap on those telephones that the suspect is shown to be using, or to have used. To do this, law enforcement and telephone company officials would have to make prior arrangements so that the location of the particular telephone used by the suspect could be relayed to the telephone company where employees would stand ready to ascertain the telephone number being used (by cross-ref-

erence from the telephone company's own records) and activate a wiretap on it. In the case of cell telephones, law enforcement officials would use existing scanner technology to intercept the telephone number of the phone a suspect is about to use (before or during a call) and then relay that number to telephone company employees, who would then immediately activate a wiretap on that number.

In order to ensure that only the conversation of the suspect (and with whomever he speaks) is intercepted, the bill does not allow law enforcement officials to activate on-going wiretaps on all telephones they believe the suspect might use. Significantly, law enforcement officials may only activate a wiretap on a particular telephone and then only when it is reasonable to presume that the suspect is "reasonably proximate" to that phone. Thus, law enforcement officials will have to use undercover agents or informants who can actually see the suspect move toward a particular telephone, or enter a room where there is only one or a limited number of telephones, before they can activate a wiretap.

Neither the House bill, nor the Senate amendment contained this provision. The managers agreed, however, to include this language as part of the conference report.

SEC. 605. AUTHORITY OF ATTORNEY GENERAL TO ACCEPT VOLUNTARY SERVICES

Section 605 will allow the Attorney General to accept voluntary services in furtherance of her law enforcement and national security missions. This provision will assist the Attorney General to find technological solutions to the ever-increasing threat of encryption to those missions. The managers agreed to include this language to support the Department of Justice's and Federal Bureau of Investigation's future efforts to address the technological advances that law enforcement will face in future criminal and counter-intelligence investigations and prosecutions. Neither the House bill, nor the Senate amendment contained this or any other similar provision.

TITLE VII—WHISTLEBLOWER PROTECTION FOR INTELLIGENCE COMMUNITY EMPLOYEES REPORTING URGENT CONCERNS TO CONGRESS

The Senate amendment, S. 2052, contained a provision at title V that would have directed the President to inform all employees of the executive branch, and employees of contractors carrying out duties under classified contracts, that the disclosure of classified information reasonably believed by the person to be evidence of a violation of law, regulation, or rule; false statement to Congress; gross mismanagement, waste of funds, abuse of authority; or a substantial and specific danger to public safety, is not prohibited by law, executive order, regulation, or otherwise contrary to public policy. The Senate provision would have allowed disclosure of such information to any Member or staff member of a committee of Congress having primary oversight responsibility for the department, agency, or element of the Federal Government to which such information relates. The House bill contained no similar title or provision. The House Permanent Select Committee on Intelligence, however, did

report the “Intelligence Community Whistleblower Protection Act of 1998” to the House on July 23, 1998. (H.R. Rep. No. 105–747, part 1.)

The managers agree to adopt a modified version of H.R. 3829. This title establishes an additional process to accommodate the disclosure of classified information of interest to Congress. The managers further agree that H.R. 3829 is not the exclusive process by which an Intelligence Community employee may make a report to Congress. The managers agree that the modified language furthers the goal of, and builds on, the Senate language contained in S. 1668 and S. 2052, which was adopted by the Senate on three occasions. The managers would also highlight the fact that Senate action on this issue was central to the development of this provision. The managers incorporate by reference the Senate reports on S. 1668 and S. 2052 (S. Rep. Nos. 105–165 and 105–185, respectively) to provide additional legislative history and the need for congressional action on this issue. The two Senate reports on this issue examine the significant constitutional implications of this legislation. *See* S. Rep. Nos. 105–165 and 105–185. In addition, the managers incorporate by reference the House report on H.R. 3829 (H.R. Rep. No. 105–747, part 1) and adopt that report as the legislative history for title VII of the conference report.¹

As an additional matter, and separate from the terms and process established by H.R. 3829, the managers agree that an Intelligence Community employee should not be subject to reprisals or threat of reprisals for making a report to appropriate Members or staff of the intelligence committees about wrongdoing within the Intelligence Community.

One important modification to H.R. 3829 that exists in the provision adopted by the managers pertains to the responsibilities of intelligence committee Members and staff receiving complaints or information through the process outlined in this title. The provision makes it plain that an intelligence committee Member or staff employee receiving such complaints or information must abide by the rules of the intelligence committees.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

AUTHORITY FOR CENTRAL INTELLIGENCE AGENCY INSPECTOR GENERAL TO REVIEW LEGISLATION

The Senate amendment contained a provision that would have authorized the Inspector General (IG) of the Central Intelligence Agency (CIA) to review existing and proposed legislation affecting CIA and to make recommendations to Congress in its semi-annual reports or otherwise. The House bill contained no such provision. The managers, upon further consideration of the issue, believed that this responsibility is already set forth in similar form in the

¹ Though incorporating House Report Number 105–747, part 1, by reference, the managers make the following two corrections. First, in the second paragraph under the heading, “H.R. 3829 as Amended,” at page 14 of the House Report, the managers would modify the sentence that provides: “Administration witnesses described such a provision as a constitutional and administrative imperative.”; to read as follows: “Administration witnesses strongly supported such a provision based upon constitutional and policy considerations.” Further, in the first sentence of the first paragraph under the heading, “The Need for Comity,” on page 16 of the House Report, the managers would modify the term “constitutional prerogative” to “presidential prerogative.”

reporting requirements of the CIA's IG in paragraph (1)(F) of section 17(d) of the CIA Act of 1949 (50 U.S.C. §403q(D)).

The managers have agreed to defer on this legislative proposal to allow the newly installed CIA IG to determine whether the current statutory authorities are sufficient to permit his independent review of proposed and current legislation.

Thus, the Senate recedes to the House position.

EXTENSION OF THE CIA VOLUNTARY SEPARATION PAY ACT

The Senate amendment contained a provision extending, until September 30, 2001, the authority of the Director of Central Intelligence (DCI) to offer early out incentives to its employees. The House bill contained no such provision. The Senate recedes to the House position.

The fact that the current authority does not expire until the end of fiscal year 1999 combined with the considerable concerns by another committee of the House with shared jurisdiction over civil service pay and pension issues, led the managers to omit this provision from the conference report. It is anticipated that the issue of extending this authority of the DCI could be addressed in separate legislation in the 106th Congress.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER GOSS,
BILL YOUNG,
JERRY LEWIS,
BUD SHUSTER,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
CHARLES F. BASS,
JIM GIBBONS,
NORMAN D. DICKS,
JULIAN C. DIXON,
DAVID E. SKAGGS,
NANCY PELOSI,
JANE HARMAN,
IKE SKELTON,
SANFORD D. BISHOP, Jr.,

From the Committee on National Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference;

FLOYD SPENCE,
BOB STUMP,
LORETTA SANCHEZ,

Managers on the Part of the House.

RICHARD SHELBY,
JOHN H. CHAFEE,
DICK LUGAR,
MIKE DEWINE,
JON KYL,
JIM INHOFE,

ORRIN G. HATCH,
PAT ROBERTS,
WAYNE ALLARD,
DAN COATS,
BOB KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
CHUCK ROBB,
FRANK R. LAUTENBERG,
CARL LEVIN,

From the Committee on Armed Services:

STROM THURMOND,
Managers on the Part of the Senate.

