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AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1995 FOR THE INTELLIGENCE ACTIVITIES OF THE U.S. GOVERNMENT AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND FOR OTHER PURPOSES

MAY 5 (legislative day, MAY 2, 1994).—Ordered to be printed

Mr. DECONCINI, from the Select Committee on Intelligence, submitted the following

REPORT

[To accompany S. 2082]

The Select Committee on Intelligence, having considered the original bill (S. 2082), which authorizes appropriations for fiscal year 1995 for the intelligence activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and which accomplishes other purposes, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

This bill would:

(1) Authorize appropriations for fiscal year 1995 for (a) the intelligence activities of the United States Government; (b) the Central Intelligence Agency Retirement and Disability System; and (c) the Community Management Account of the Director of Central Intelligence;

(2) Authorize the personnel ceilings as of September 30, 1995, for the intelligence activities of the United States and for the Community Management Account of the Director of Central Intelligence;

(3) Repeal the limitation regarding intelligence cooperation with South Africa contained in section 107 of the Intelligence Authorization Act for Fiscal Year 1987;

(4) Require appointment by the President with the advice and consent of the Senate of the General Counsel of the Central Intelligence Agency;

(5) Amend the Fair Credit Reporting Act to permit the Federal Bureau of Investigation to obtain consumer credit reports necessary to foreign counterintelligence investigations under certain circumstances and subject to appropriate controls on the use of such reports;

(6) Permit the Secretary of Defense to provide civilian personnel management for the Central Imagery Office consistent with existing authority for the Defense Intelligence Agency subject to certain conditions; and

(7) Make certain other changes of a technical nature to existing law governing intelligence agencies.

THE CLASSIFIED SUPPLEMENT TO THE COMMITTEE REPORT

The classified nature of U.S. intelligence activities prevents the Committee from disclosing the details of its budgetary recommendations in this Report.

The Committee has prepared a classified supplement to this Report, which contains (a) the classified annex to this Report and (b) the classified schedule of authorizations which is incorporated by reference in the Act and has the same legal status as a public law. The classified annex to this report explains the full scope and intent of the Committee's actions as set forth in the classified schedule of authorizations. The classified annex has the same status as any Senate Report, and the Committee fully expects the Intelligence Community to comply with the limitations, guidelines, directions, and recommendations contained therein.

This classified supplement to the Committee Report is available for review by any Member of the Senate, subject to the provisions of Senate Resolution 400 of the 94th Congress.

The classified supplement is also made available to affected departments and agencies within the Intelligence Community.

SCOPE OF COMMITTEE REVIEW

As it does annually, the Committee conducted a detailed review of the Administration's budget request for the National Foreign Intelligence Program for fiscal year 1995. This review included a series of hearings with the Director of Central Intelligence and other senior officials from the Intelligence Community, numerous staff briefings, review of budget justification materials and numerous written responses provided by the Intelligence Community to specific questions posed by the Committee.

In addition to its annual review of the Administration's budget request, the Committee performs continuing oversight of various intelligence activities and programs, to include the conduct of audits and reviews by the Committee's audit staff. These inquiries frequently lead to actions initiated by the Committee with respect to the budget of the activity or program concerned.

The Committee also reviewed the Administration's budget request for the Tactical Intelligence and Related Activities of the Department of Defense. The Committee's recommendations regarding these programs are provided separately to the Committee on Armed Services for consideration within the context of the National Defense Authorization Act for Fiscal Year 1995.

COMMITTEE ACTION ON THE FY 1995 INTELLIGENCE BUDGET

While the level of funding recommended by the Committee for fiscal year 1995 remains classified pursuant to Executive branch policy, the Committee can say that it is recommending a modest re-

duction in the amount of funding requested by the Administration for intelligence activities for fiscal year 1995. Moreover, the Administration's request itself represented a slight reduction over the amount appropriated for the previous fiscal year when adjusted for inflation. Still, in the Committee's view, the recommended level of authorization would preserve a substantial, flexible, and forward-looking capability adequate to support the national security needs of the country during the next fiscal year.

It is important to appreciate that if its recommended funding level is adopted by the Congress, this would be the fifth consecutive year that the National Foreign Intelligence Program budget has been reduced in real terms. Overall, the amount recommended by the Committee for the FY 95 national intelligence budget represents a reduction of over 13% in FY 1995 dollars since 1990.

Similarly, in the area of personnel, the Committee notes that the 17.5% overall reduction in intelligence personnel which Congress mandated in 1992, to be achieved by FY 1997, is well on track. Indeed, some agencies have already met the objective, and the Committee is advised that personnel reductions well beyond the 17.5% level are projected by most intelligence agencies by the end of the decade.

These personnel and resource reductions are forcing the Intelligence Community and the Committee to make difficult choices in terms of which programs to continue, which systems to purchase, and which research and development initiatives hold the greatest promise. They have also led intelligence agencies to consolidate management structures and streamline their functions to achieve greater economy.

The Committee views some change as inevitable in a post Cold-War environment. U.S. intelligence did need to take stock after the fall of communism. It did need to restructure and reorder. In fact, it has done so in relatively dramatic fashion over the last five years, both at the prodding of the Congress and on its own initiative.

This is not to say the job is done. The process of adjusting the size and functions of U.S. intelligence agencies to cope with a changed world in all likelihood has years to run its course.

INTELLIGENCE IN THE POST-COLD WAR WORLD

Speaking to a group of CIA employees at Langley, Virginia on January 4, 1994, President Clinton said:

> The end of the Cold War increases our security in many ways. You helped to win that war, and it is fitting that a piece of the Berlin Wall stands here on these grounds. But even now, this new world remains dangerous, and, in many ways, more complex and more difficult to fathom. We need to understand more than we do about the challenges of ethnic conflict, militant nationalism, terrorism and the proliferation of all kinds of weapons. Accurate, reliable intelligence is the key * * * Without it, it is difficult to make good decisions in a crisis or for the long-term.

Later the same month, in a similar vein, Director of Central Intelligence, R. James Woolsey, told the Committee that—

> The task for intelligence in the post Cold War era is clear:
>
> First, we must support policymakers working hard to nurture promise and hope, to protect the gains of the past five remarkable—indeed, revolutionary years.
>
> Second, we must remain vigilant against North Korea, Iran, Iraq, Libya, and others throughout the globe who want to make a mockery of our goal of a more peaceful world.
>
> Third, we must provide the early warning and the information systems needed to keep our reduced defense forces up to the tasks they may face in an uncertain future.
>
> Fourth, we must be prepared for the unknown. Next year might bring a different set of headlines, and a new set of problems which can threaten our interests, task our resources, and challenge our resolve.

Lieutenant General James R. Clapper, Director of the Defense Intelligence Agency, also noted to the Committee that the uncertainty of the post-Cold War era places new demands upon intelligence:

> This is a time of more mysteries and fewer secrets * * * Perhaps someone is confident what the future holds; I'm not. And it remains my belief that in such a world, the success of our national security policy and military strategy is more dependent on intelligence than ever before to identify risks and resolve crises before they escalate into conflict * * * [and] whether it's regional military analysts steeped in the history, religion, or ethnic composition of a particular part of the globe, or technical analysts versed in the development of specific foreign weapons systems, or collection capabilities that support either ongoing military operations or national-level analysis, few [intelligence] assets are easily interchangeable, and none are quickly replaceable. Once lost, they cannot be recovered without prolonged delay and extraordinary expense.

Reasonable people may differ with respect to how much intelligence is "enough" in the post Cold War world. But few would say that the needs of U.S. policymakers and military commanders for information have diminished. Indeed—

A pattern of instability is evident throughout the post-Cold War world. U.S. military forces may be called upon to carry out unilateral or multilateral operations of varying size and scope, to contribute to peacekeeping operations, or to carry out limited rescue operations involving American citizens. Intelligence is needed both to plan and to execute such operations wherever they may occur. From training and equipping military forces to providing the information necessary to target "smart" weapons, intelligence is crucial to protecting American lives and to the success of military operations. And, as the post-Cold war deployments to the Persian Gulf

and Somalia demonstrate, the locus of such operations can no longer be readily predicted.

There is still much to be done to consolidate the gains of the recent past. Political and economic conditions in Russia and many of the former Soviet republics remain fragile. While great strides have been made in terms of the dismantling and retargetting of nuclear weapons to limit the threat to the United States, these gains can be reversed by political change. Intelligence plays a crucial role in monitoring the internal conditions within Russia and the former Soviet republics and, in particular, the control and dismantling of nuclear weapons.

There are still countries which directly threaten our interests and those of other countries. A number of these countries are developing weapons of mass destruction and delivery systems capable of carrying weapons to places around the globe. Some of these countries appear to have no qualms about selling these weapons or their related delivery systems to other countries, thus proliferating the problem for the rest of the world. U.S. intelligence continues to play a crucial role in detecting the development and production of such weapons and delivery systems, as well as efforts to sell them to others. Indeed, there have been instances where U.S. intelligence has been instrumental in thwarting deliveries of equipment or materials to be used for the production of weapons of mass destruction.

There are a number of threats to the security and well-being of our citizens which emanate from abroad which transcend national boundaries or governments. The 1993 bombing at the World Trade Center in New York brought home to Americans their vulnerability to acts of terrorism carried out by international terrorist groups. The sale in the United States of narcotics produced abroad continues to spawn a great deal of crime within the United States, and presents the most egregious and costly public health problem with which this country must cope. Americans also increasingly find themselves the victims of international crime, whether it involves aliens being smuggled to our shores, having our goods and products pirated abroad, being subject to ethnic violence at the hands of outside troublemakers, or having U.S. business ventures undermined by unfair trade practices. Working through law enforcement and diplomatic channels, as appropriate, U.S. intelligence continues to play a significant role in dealing with each of these transnational issues. Terrorists have been identified and thwarted from carrying out their plans; drug shipments have been prevented and drug kingpins neutralized; and the international playing field has been "levelled" in some cases for American business abroad—in part due to the efforts of U.S. intelligence.

This is not to say that everything the Intelligence Community does is focused on important problems or serious issues, or that there is no waste or duplication, or that there are not better, less costly ways of collecting and analyzing information needed by the Government.

The Committee continually struggles within the context of its annual budget review to arrive at the right mix of personnel, resources, and policy to ensure that U.S. intelligence agencies focus on the most important issues in the most cost-effective way. As sur-

rogates for both the Senate and the public, the Committee takes seriously its oversight responsibilities. We remain skeptical and critical. At the same time, the Committee is apprised of the contributions of the Intelligence Community in a way the public cannot be. In the post-Cold War era, amid the calls for budget reductions and organizational retrenchment, the Committee simply notes that the country continues to derive important benefits from its intelligence activities. Our objective is to find ways to do things more efficiently without losing the edge that intelligence often provides.

NEED FOR COUNTERINTELLIGENCE REFORMS

Like most Americans, the Committee was shocked and dismayed by the arrest on February 21, 1994, of a CIA employee, Aldrich H. Ames, and his wife, Maria Del Rosario Casas Ames, on charges of espionage. According to court documents, Ames was alleged to have been recruited by the Soviet Union in 1985 and to have continued his espionage activities for the Russian Republic until the time of his arrest. For his efforts, Ames is alleged to have received cash and securities with a value over $2 million. The cash was deposited in various overseas bank accounts and was used, among other things, to purchase a $540,000 home with cash and a new Jaguar automobile.

With access to highly sensitive information regarding the CIA's overseas operations, Ames was in a position to compromise the CIA's most sensitive cooperating sources, many of whom, in fact, are known to have been imprisoned or executed during the period Ames was allegedly involved in espionage activities.

The Committee immediately began an inquiry into what had gone wrong at the CIA to permit such activities to go undetected for such a long period of time. At the same time, the Committee requested an independent assessment from the Inspector General of the CIA.

Both assessments are ongoing. To some extent, the need to avoid interfering with the Ames' prosecution has prevented both inquiries from being expeditiously concluded. Still, the case clearly raises serious questions about the adequacy of security policies and procedures at the CIA: Is sufficient information required from employees with respect to their financial situations or their foreign travel? is there over-reliance on the polygraph? Is compartmentation of highly sensitive information being enforced? Are document control procedures adequate? Is the FBI being brought in at an appropriate stage in counterintelligence investigation?

The Committee plans to hold additional hearings later in the session and issue a public report of its findings and recommendations prior to the end of the 103d Congress.

The Committee also plans to consider several legislative proposals in the near future which would improve the counterintelligence and security posture of CIA and other agencies within the Intelligence Community. The Committee may, depending upon the outcome of these deliberations, offer amendments to this bill when it comes to the Senate floor to strengthen existing security policies and procedures.

IMPLEMENTATION OF THE JOINT SECURITY COMMISSION REPORT

On March 3, 1994, the Committee received testimony in public session summarizing the report of a Joint Security Commission, appointed in June, 1993, by the Secretary of Defense and Director of Central Intelligence. Chartered to develop a new approach to security—simpler, more uniform, and less expensive than the current security system—the Commission produced an extensive report with over 100 recommendations, some of which would, if implemented, represent significant departures from the *status quo.* While not all of the Commission's recommendations will meet with unanimous support, the Committee believes that they would go a long way toward simplifying and streamlining security procedures—as well as realizing significant savings in an increasingly constrained budget environment.

The Committee is interested, therefore, in seeing that the Joint Security Commission recommendations receive appropriate scrutiny within the Executive branch. Accordingly, we request that the Secretary of Defense and Director of Central Intelligence submit a joint report to the Committee no later than January 1, 1995, describing the status of the implementation of the Joint Security Commission's recommendations. The report should specify those recommendations which have been implemented, those whose implementation is contemplated, and those which have been rejected and the reasons for such rejection.

REPEAL OF THE LIMITATION ON INTELLIGENCE COOPERATION WITH SOUTH AFRICA

In 1986, Congress enacted, as part of the Intelligence Authorization Act for Fiscal Year 1987, a limitation upon U.S. intelligence cooperation with the government of South Africa. Motivated by a concern that the intelligence services of South Africa were playing an instrumental role in preserving the apartheid system against internal opposition forces, Congress prohibited U.S. intelligence agencies from engaging in any form of cooperation with the Government of South Africa "except activities which are reasonably designed to facilitate the collection of necessary intelligence."

Enacted the same year was the Comprehensive Anti-Apartheid Act of 1986, which imposed sanctions and restrictions generally on aid to the Government of South Africa.

South Africa has in recent years dramatically changed course. The apartheid system has been substantially dismantled, and, as a result of an historic agreement reached in July, 1993, between the ruling government and African National Congress, the first multi-racial, democratic elections are scheduled to be held on April 26–28, 1994.

As a result of these changes, virtually all of the restrictions imposed upon South Africa by the Anti-Apartheid Act of 1986 have now been lifted by the United States.

With the advent of majority rule in South Africa, the Committee believes it appropriate to repeal the longstanding statutory limitation on intelligence cooperation. Indeed, it is in the interests of the United States to have the flexibility to cooperate as may be appropriate with the newly-elected South African Government to foster

the development of democratic institutions and processes. U.S. intelligence may be able to contribute in this regard, particularly in terms of helping the intelligence and security services which emerge under the newly-elected South African Government to establish internal management and administrative systems to improve accountability and oversight, and, as may be applicable, to adapt to any legislative oversight that may be established.

Accordingly, the bill being reported by the Committee contains a provision repealing the limitation on U.S. intelligence cooperation enacted in 1986.

The Committee nonetheless intends to closely monitor U.S. intelligence cooperation with the newly-elected South African Government which may be undertaken as a result of this action.

THE TRANSFER OF ELEMENTS FROM THE NATIONAL FOREIGN INTELLIGENCE PROGRAM TO THE DEPARTMENT OF DEFENSE

In the classified report which accompanies the Schedule of Authorizations, the Committee authorizes funding for a particular intelligence collection asset whose funding had been transferred by the Administration from the National Foreign Intelligence Program to the budget of the Department of Defense without the Committee having been consulted in advance of the transfer.

In the view of the Committee, section 3 of the National Security Act of 1947 quite clearly places within the National Foreign Intelligence Program "all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence *solely* for the planning and conduct of tactical military operations by the United States Armed Forces [emphasis added]."

With regard to the intelligence collection asset at issue, there is no dispute that it satisfies national as well as tactical intelligence requirements, i.e., is not "solely for the planning and conduct of tactical military operations." The rationale for the transfer proposed by the Administration was essentially that this particular intelligence asset is better managed by the Department of Defense where it can be treated with other like assets. The Committee does not take issue with the need for the Department of Defense to manage like assets in a coordinated, coherent manner, nor does it take issue with the management arrangement agreed to by the Director of Central Intelligence and the Secretary of Defense for managing this particular intelligence asset. The Committee does take issue, however, with removing the funds for the asset in question from the National Foreign Intelligence Program, which effectively removes it from the budgetary control and authority of the Director of Central Intelligence, who is responsible by law for satisfying national intelligence requirements.

In order that the Committee will have an opportunity to express its views with regard to similar transfers that might be contemplated in the future, the Committee directs the Director of Central Intelligence to provide notice at least 30 days in advance

of any future transfer of funds from the National Foreign Intelligence Program to the budget of another department or agency.

SENATE CONFIRMATION OF THE CIA GENERAL COUNSEL

Section 402 of the bill creates a Senate-confirmed, civilian Presidential appointee position of General Counsel of the Central Intelligence Agency (hereafter "statutory CIA General Counsel"). The current position of General Counsel of the CIA (hereafter "non-statutory CIA General Counsel") is a position in the CIA appointed by the Director of Central Intelligence (DCI).

The precedent for White House and Senate involvement in the selection of senior CIA officials was established at the inception of the present-day U.S. Intelligence Community. The National Security Act of 1947 provided for Presidential nomination and Senate confirmation of the DCI, and the same procedure for selection of the Deputy Director of Central Intelligence (DDCI) was established in 1953. In 1989, legislation originated in this Committee created a statutory Inspector General (IG) for the CIA with a requirement that the President's nominee be confirmed by the Senate.

Senate confirmation of the CIA General Counsel has also been proposed over the years. As early as 1976, the Church Committee, in its final report, recommended that each intelligence agency have a General Counsel nominated by the President and confirmed by the Senate:

> The Committee believes that the extraordinary responsibilities exercised by the General Counsel of these agencies make it very important that these officials are subject to examination by the Senate prior to their confirmation. The Committee further believes that making such positions subject to Presidential appointment and senatorial confirmation will increase the stature of the office and will protect the independence of judgment of the General Counsel. (U.S. Congress, Senate, Select Committee to Study Governmental Operations with Respect to Intelligence Activities, 94th Congress, 2d session, Intelligence Activities and the Rights of Americans, Book II, Final Report (Washington: Government Printing Office, 1976), p. 333.)

A similar recommendation in favor of Senate confirmation of the CIA General Counsel was made by the congressional committees investigating the Iran-Contra affair in 1987. (U.S. Congress, House, Select Committee to Investigate Covert Arms Transactions with Iran, and Senate, Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, 100th Congress, 1st Session, Report of the Congressional Committees Investigating the Iran-Contra Affair (Washington: Government Printing Office, 1987), p. 425.)

The importance of the duties of the non-statutory CIA General Counsel, especially with respect to ensuring CIA's full compliance with the laws of the United States governing U.S. intelligence activities, has increased steadily in the past two decades. The responsibilities of CIA's General Counsel are in some respects more significant than those of other General Counsels within the Intelligence Community because of the many unique and sensitive pro-

grams the CIA undertakes. Many of the legal issues confronting the CIA General Counsel must be handled without the benefit of numerous legal precedents and public discourse that assist other departmental and agency General Counsels.

Accordingly, the Committee has concluded that the position should be elevated to the level of a Senate-confirmed, Presidential appointment. Elevating the position will ensure that the General Counsel of the CIA has the stature commensurate with the duties of the position. It will ensure also that the President and the Senate can perform their respective constitutional roles with respect to a position whose duties are of such significance.

The Committee notes that all elements of the U.S. Intelligence Community, except the CIA, are part of departments that have statutory general counsels (or equivalent officials) who are Senate-confirmed Presidential appointees. With the enactment of Section 402, all elements of the Intelligence Community will be, or be part of, departments or agencies with general counsels appointed by the President by and with the advice and consent of the Senate. In the last several years, this Committee has taken the lead role in providing a clearer statutory framework for the Intelligence Community—and this provision is a logical extension of that effort.

REVIEW OF GLOBAL PROLIFERATION DEVELOPMENTS

Over the years, the Committee has closely monitored the proliferation of weapons of mass destruction, their delivery systems, and supporting technologies. The Committee considers proliferation to be one of the most significant and growing threats to U.S. national security and believes that the federal government should do everything possible to provide unclassified information to the American public on this subject.

Because of this concern, the Committee in 1990 directed the Director of the Defense Intelligence Agency (DIA) to produce, consistent with the protection of intelligence sources and methods, "an unclassified review of proliferation developments, similar in style and format to the annual DIA publication, 'Soviet Military Power,' providing information on this important issue." The Committtment went on to state that such report should be as comprehensive as possible, to include, among other things: "(1) a global assessment of the current state of nuclear, chemical, and biological weapon and delivery vehicle proliferation and an estimate of proliferation-related developments expected to occur within the next 5–10 years; (2) specific reports on regional developments (e.g. Latin America; Africa; Near East/South Asia; Far East) focusing on the impact of such developments on regional stability; [and] (3) an assessment of compliance with existing treaties and other international agreements dealing with the proliferation of these weapons of mass destruction.* * *"

Despite the fact that there are ample precedents for the public release of information derived from intelligence bearing upon matters of public importance, the Department of Defense responded to the Committee in 1991 that such a document could not be meaningfully produced for public release without compromising intelligence sources and methods.

Last month, the Department of Defense apparently reversed its previous position. Deputy Secretary of Defense John Deutch formally requested the Director of the DIA to prepare an unclassified report, to be ready for public distribution no later than September 1, 1994, that explains "(1) the military threat posed by the proliferation of nuclear, chemical, and biological weapons—Weapons of Mass Destruction (WMD)—and their ballistic and cruise missile delivery systems, and (2) the consequent need for the Department of Defense to undertake the security preparations necessary to counter the threat." The directive to DIA also stated that "[t]he document should focus upon the WMD and missile threat from North Korea, Iran, Iraq, and Libya.* * * The document should mention other proliferators, suppliers, and countries with projects of concern only insofar as they have been mentioned in other open U.S. government sources, e.g., unclassified reports to Congress or listings in published federal documents."

The Committee commends the Department of Defense for making a renewed effort to comply with the thrust of the 1990 Committee directive. The Committee continues to believe that such a report will be of great benefit to the public's understanding of the proliferation threat.

The Committee notes, however, that the scope of the public report requested by the Deputy Secretary is more limited than that directed earlier by the Committee. For example, DIA is asked to focus upon the proliferation activities of North Korea, Iran, Iraq, and Libya, and describe the proliferation activities of other countries only insofar as they have been mentioned in the public media. The Committee, on the other hand, had directed a comprehensive assessment of the proliferation-related activities of other nations which could have political or military implications for the United States (e.g., China, India, Pakistan, and Syria) and asked for the DIA to determine what information derived from intelligence could be made publicly available without damage to the national security.

While the Committee is aware that the public identification of certain countries as either a confirmed or suspect proliferator could have diplomatic and political implications, we believe on balance that an effort should be made to provide as much relevant information to the public on this subject as possible where U.S. interests are affected, regardless of the country concerned or whether the proliferation activity has been described in the public media.

While the Committee commends the Department of Defense and looks forward to the release of this report, we hope that this and succeeding reports will treat this subject as comprehensively and informatively as possible consistent with the national security interests of the United States.

REPORT ON THE VIABILITY OF THE INDUSTRIAL BASE

The Committee is concerned that budget reductions and stretchouts in the procurement of intelligence systems may be endangering the Intelligence Community's industrial base. In assessing the annual budget request of intelligence agencies, both Congress and the Executive Branch need objective data to determine which capabilities resident in the private sector are essential to the Intel-

ligence Community's continued accomplishment of its mission, and which of those capabilities are in danger of extinction. While such data is occasionally provided to the oversight committees on a piecemeal, largely anecdotal, basis, the Committee finds that no comprehensive, objective analysis of this subject is currently available. Accordingly, the Committee directs the Director of Central Intelligence to conduct a study of the Intelligence Community's industrial base which identifies those capabilities which are essential to the continued accomplishment of its mission and which evaluates the current status of those capabilities. The results of this study shall be reported to the oversight committees no later than December 31, 1994.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

Title I—Intelligence activities

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence activities the Act authorizes appropriations for fiscal year 1995.

Section 102 provides that details of the amounts authorized to be appropriated for intelligence activities and personnel ceilings covered under this title for fiscal year 1995 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 authorizes the Director of Central Intelligence in fiscal year 1995 to expand the personnel ceilings applicable to the components of the Intelligence Community under Section 102 by an amount not to exceed 2 percent of the total of the ceilings applicable under this section. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

Section 104 authorizes appropriations and personnel levels for fiscal year 1995 for those entities funded under the Community Management Account of the Director of Central Intelligence.

Subsection (a) authorizes appropriations in the amount of $106,300,000 for fiscal year 1995 for the staffing and administration of the various components under the Community Management Account of the Director of Central Intelligence. It further provides that funds identified for the Advanced Research and Development Committee of the Community Management Account shall remain available through the end of fiscal year 1996.

Subsection (b) authorizes 221 full-time personnel for the components under the Community Management Account for fiscal year 1995 and provides that such personnel may be permanent employees of the Account or detailed from various elements of the United States Government.

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

Title II—Central Intelligence Agency Retirement and Disability System

Section 201 authorizes appropriations in the amount of $198,000,000 for fiscal year 1995 for the Central Intelligence Agency Retirement and Disability Fund.

Title III—General provisions

Section 301 provides that appropriations authorized by the 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.

Section 302 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

Section 303 repeals section 107 of the Intelligence Authorization Act for Fiscal Year 1987 (P.L. 99–569) which provides as follows:

> No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. It is the policy of the United States that no agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of South Africa which pertains to a South African internal opposition group, movement, organization, or individual. Any change in such policy, or the provision of intelligence information contrary to such policy, shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947.

Section 304 requires the Director of Central Intelligence to submit a report to the two intelligence committees no later than December 1, 1994, setting forth a legislative proposal, coordinated as appropriate with elements of the Intelligence Community, which would provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps.

The report referred to above should include an explanation and section-by-section analysis of the proposed legislation. It should also include a statement of the Director's position with regard to the desirability of such legislation.

Title IV—Central Intelligence Agency

Section 401 amends section 4(a)(5) of the Central Intelligence Agency Act of 1949 to delete language which provides that medical treatment for a CIA employee for an illness or injury, or the costs of transporting employees to a medical facility to obtain such treatment, is not compensable if the condition resulted from "vicious

habits, interperance, or misconduct." While deletion of this language would not itself mandate compensation for such illnesses or injuries, it would permit the Director of Central Intelligence to authorize compensation in such cases in accordance with the regulations issued pursuant to the statute.

While the Committee believes that the factors set forth in the 1949 Act should continue to be taken into account by the DCI in terms of compensating employees for medical treatment, the Committee believes it preferable to achieve this by regulation which will permit the DCI to consider other factors in such cases. Deletion of the existing language would also eliminate the possibility that such language could be construed to preclude the CIA's alcohol rehabilitation program which provides assistance to employees suffering from alcohol abuse.

The Committee also notes that language identical to that deleted by section 401 was used in the corresponding provisions of the Foreign Service Act of 1946. This language was deleted when the Foreign Service Act was amended in 1980. Section 401 would thus make the CIA Act of 1949 consistent with the Foreign Service Act in this respect.

Section 402 of the bill adds a new Section 20 to the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) to establish the position of General Counsel of the Central Intelligence Agency. The new Section 20 consists of three subsections.

Subsection (a) establishes the position of General Counsel of the Central Intelligence Agency and provides for appointment of the General Counsel from civilian life by the President, by and with the advice and consent of the Senate. The new Presidential appointee position would replace the current non-statutory CIA General Counsel position.

The statutory CIA General Counsel would be subject to the authority and supervision of the Director of Central Intelligence by virtue of the Director's authority as the head of the Central Intelligence Agency under Sections 102(a)(2) and 103(d) of the National Security Act of 1947. The establishment of the statutory position does not impair or affect the existing authority of the Director of Central Intelligence.

Subsection (b) establishes the General Counsel of the Central Intelligence Agency as the chief legal officer of the Central Intelligence Agency. As the chief legal officer, the General Counsel will be responsible for ensuring that legal advice and assistance are provided as appropriate throughout the CIA, and all personnel providing legal services within the CIA will be bound by the legal opinions issued by the General Counsel in the course of the General Counsel's official duties.

Subsection (c) provides that the Director of Central Intelligence shall prescribe the functions of the statutory CIA General Counsel. Thus, the Director may assign the General Counsel functions beyond those inherent in the General Counsel as the CIA's chief legal officer. In particular, the Director of Central Intelligence may assign to the statutory CIA General Counsel the function of providing legal advice to the Director of Central Intelligence in the performance of the Director's statutory duties that transcend the CIA.

Section 402(b) of the bill amends Section 5315 of Title 5, United States Code, to place the position of General Counsel of the Central Intelligence Agency at Level IV of the Executive Schedule. The Executive Schedule places department and agency general counsels who currently are on the Executive Schedule at Level IV.

Title V—Department of Defense

Section 501 contains two provisions relating to the Central Imagery Office (CIO) of the Department of Defense.

Subsection (a) amends the National Security Act of 1947 by striking the general reference to the CIO in present law, i.e. "a central imagery authority", and replacing it with the name of the Central Imagery Office. The vague language in existing law was enacted in 1992 soon after the creation of the CIO by directive of the Secretary of Defense. At the time it was unclear whether the CIO or some other entity would execute the responsibilities of the Secretary under the statute. Since that time, it has become clear that the CIO will perform these functions on a permanent basis. Subsection (a) simply recognizes this situation.

Subsection (b) authorizes the Secretary of Defense to utilize the authorities set forth in sections 1601 and 1604 of title 10, United States Code (pertaining to civilian officers and employees of the Defense Intelligence Agency), with respect to civilian officers and employees of the Central Imagery (CIO), provided that administrative support for civilian officers and employees of the CIO shall remain a responsibility of the Defense Intelligence Agency, and that the special termination authority provided by section 1604(e) may be exercised only by the Secretary or Deputy Secretary with regard to CIO employees.

Under existing Defense Department directive, administrative support for civilian personnel of the CIO is provided by the DIA. CIO is an organization with 360 authorized positions, 167 of which are currently filled by persons on rotation from other agencies, leaving approximately 200 positions to be filled by the CIO. Since the number of civilian employees at CIO is relatively small, it appears prudent for DIA, a much larger organization, to continue to provide administrative personnel support, rather than authorizing CIO to create a separate infrastructure for this purpose.

All DIA civilian employees are excepted service employees governed by sections 1601 and 1604 of title 10, United States Code. Although civilian employees of the CIO are similar to DIA employees in terms of the special skills and expertise required to fill such positions, CIO presently does not have statutory authority to treat its civilian employees within the same framework. Thus, DIA is obliged to administer DIA employees under one system and CIO employees under another. As a practical matter, this has hampered the selection and hiring of CIO employees, and has adversely affected CIO's ability to compete with other agencies in the Intelligence Community for skilled employees. Since its creation in 1992, CIO has been able to hire only 6 new civilian employees.

The Committee believes that providing the Secretary authority to treat CIO employees under the same personnel framework as DIA employees (avoiding a separate administrative structure to imple-

ment the program) will greatly facilitate the ability of the CIO to hire and retain skilled civilian employees.

Section 502 amends section 2796 of title 10, United States Code, to permit the Director of the Defense Mapping Agency somewhat greater authority to withhold from public disclosure maps, charts, and geodetic data whose disclosure to the public would jeopardize or interfere with ongoing military or intelligence operations. Under existing law, the Director may withhold such maps, charts, and data only if they would reveal "military or operational plans." The amendment would permit the Director of the Defense Mapping Agency to withhold maps, charts, and geodetic data prepared specifically to support ongoing military or intelligence operations where such products are not themselves classified.

Section 503 authorizes the Secretary of Defense during fiscal year 1995 to expend $3 million out of the funds made available under this Act to establish a National Public Information Center for the purpose of (1) surveying, collecting, storing, distributing and presenting unclassified information; (2) providing support for training in decisionmaking, and for professional education in the Department of Defense and Intelligence Community; and (3) informing more broadly the American public.

In agreeing to this provision, the Committee seeks to foster greater use of open source information. The Committee also recognizes that much of the Government's unclassified data, derived from open sources, is not readily accessible in a usable form—either to elements of the Government itself or to the American people—due to limitations of medium, format, location, and obsolete technology. As a result, a wealth of unclassified information—which could have a significant bearing upon national security decisionmaking as well as constitute a valuable public resource—is being underutilized or ignored. American taxpayers paid for this information to be acquired or developed, and they are paying for its continued storage in many data banks. The Committee believes that establishing an element within the Department of Defense to assess and analyze available open source data banks and determine which can and should be made more accessible to the Government and to the public could—for a relatively small investment—pay substantial dividends in terms of value added.

The value of the data would be further increased if it were combined with other open source data, from private sector as well as Government data bases, into multimedia information products that efficiently and vividly present the information. In this way, open source information would acquire greater value in supporting defense and other Government decisionmakers, as well as more broadly informing the public.

The Committee is particularly interested in the application of the full range of contemporary techniques for combining, enhancing, and presenting open source data. For example, data from the records of the Department of State, the historians of the military services, university libraries, the Defense Mapping Agency, and declassified satellite imagery could be combined into a CD–ROM or video presentation on North Korea that could be useful to decisionmakers as well as to the public. Data from the records of the Army Corps of Engineers, the Department of Agriculture, State

historical societies, university libraries, the Census Bureau, and LANDSAT imagery could be combined into a presentation on settlement and land use trends in the Upper Mississippi that would be useful to such varied customers as Federal flood insurance decisionmakers, State and Federal civil defense planners, and the general public of the region. The Committee's intent is to greatly increase the usefulness of open source information for policymakers and for the public.

Accordingly, the bill authorizes the Secretary of Defense to create a National Public Information Center which would survey, collect, and combine unclassified information held by, or accessible to, Government agencies and ensure through appropriate means that it is made readily accessible in modern media to Government consumers and the private sector.

Title VI—Federal Bureau of Investigation

Section 601 would amend section 608 of the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681f) to grant the Federal Bureau of Investigation (FBI) access to consumer credit records in counterintelligence investigations.

This provision would provide a limited expansion of the FBI's authority, in counterintelligence investigations (including terrorism investigations), to use a "National Security Letter," i.e. a written certification by the FBI Director or the Director's designee, to obtain information without a court order. FBI presently has authority to use the National Security Letter mechanism to obtain two types of records: financial institution records (under the Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)) and telephone subscriber and toll billing information (under the Electronic Communications Privacy Act, 18 U.S.C. 2709). Expansion of this extraordinary authority is not taken lightly by the Committee, but the Committee has concluded that in this instance the need is genuine, the threshold for use is sufficiently rigorous, and, given the safeguards built in to the legislation, the threat to privacy is minimized.

Under a provision of the Right to Financial Privacy Act (RFPA) (12 U.S.C. 3414(a)(5)), the FBI is entitled to obtain financial records from financial institutions, such as banks and credit card companies, by means of a National Security Letter when the Director or the Director's designee certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power, as those terms are defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

The FBI considers such access to financial records crucial to trace the activities of suspected spies or terrorists. The need to follow financial dealings in counterintelligence investigations has grown as foreign intelligence services increasingly operate under non-official cover, i.e., pose as business entities or executives, and as foreign intelligence service activity has focused increasingly on U.S. economic information.

FBI's right of access under the Right to Financial Privacy Act cannot be effectively used, however, until the FBI discovers which

financial institutions are being utilized by the subject of a counterintelligence investigation. Consumer reports maintained by credit bureaus are a ready source of such information, but, although such reports are readily available to the private sector, they are not available to FBI counterintelligence investigators. Under present section 608 of the Fair Credit Reporting Act, without a court order, FBI counterintelligence officials, like other government agencies, are entitled to obtain only limited information from credit reporting agencies—the name, address, former addresses, places of employment, and former places of employment, of a person—and this information can be obtained only with the consent of the credit bureau.

When appropriate legal standards are met, FBI is able to obtain broader and mandatory access to credit records by means of a court order or grand jury subpoena (see the FCRA, 15 U.S.C. 1681b(1)), but such an option is available to the FBI only after a counterintelligence investigation has been formally converted to a criminal investigation or proceeding. Many counterintelligence investigations never reach the criminal stage but proceed for intelligence purposes or are handled in diplomatic channels.

FBI has made a specific showing to the Committee that the effort to identify financial institutions in order to make use of FBI authority under the Right to Financial Privacy Act can not only be time-consuming and resource-intensive, but can also require the use of investigative techniques—such as physical and electronic surveillance, review of mail covers, and canvassing of all banks in an area—that would appear to be more intrusive than the review of credit reports. FBI has offered a number of specific examples in which lengthy, intensive and intrusive surveillance activity was required to identify financial institutions doing business with a suspected spy or terrorist.

FBI officials have informed the Committee that the FBI's only interest in the credit reports is to identify relevant financial institutions so that it may make use of its authority under the Right to Financial Privacy Act. The provision adopted by the Committee is intended to limit FBI access and use of its authority to that access and use required to fulfill this interest.

Section 608 of the Fair Credit Reporting Act presently consists of only one paragraph, the provision described above that authorizes credit reporting agencies to provide government agencies with certain identifying information respecting a consumer. Section 601 of the instant legislation would amend FCRA section 608 by designating the existing text as subsection 608(a) and adding a new subsection 608(b) consisting of twelve paragraphs.

Paragraph 608(b)(1) of the amended FCRA requires a consumer reporting agency to furnish a consumer report to the FBI when presented with a written request for a consumer report, signed by the FBI Director or the Director's designee, which certifies compliance with the subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such records are necessary for the conduct of an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe that the person whose consumer report is sought is

a foreign power or an agent of a foreign power, as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

The requirement that there be specific and articulable facts giving reason to believe that the person is an agent of a foreign power before FBI can obtain access to a consumer report is consistent with the standards in the Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)(A), and the Electronic Communications Privacy Act, 18 U.S.C. 2709(b).

However, in contrast to those statutes, the Committee has drafted the FCRA certification requirement to provide that the FBI demand submitted to the consumer reporting agency make reference to the statutory provision without providing the agency with a written certification that the subject of the consumer report is believed to be an agent of a foreign power. FBI would still be required to record in writing its determination regarding the subject, and the credit reporting agency would be able to draw the necessary conclusion, but the Committee believes that its approach would reduce the risk of harm from the certification process itself to the person under investigation. A similar approach is taken in paragraph 608(b)(2), described below.

Section 605 of the FCRA, 15 U.S.C. 1681c, defines "consumer report" in a manner that prohibits the dissemination by credit reporting agencies of certain older information except in limited circumstances. None of these excepted circumstances would apply to FBI access under proposed FCRA paragraph 608(b)(1) (or proposed FCRA paragraph 608(b)(2)). Accordingly, FBI access would be limited to "consumer reports" as defined in section 605.

The term "an authorized foreign counterintelligence investigation" includes those FBI investigations conducted for the purpose of countering international terrorist activities as well as those FBI investigations conducted for the purpose of countering the intelligence activities of foreign powers. Both types of investigations are conducted under the auspices of the FBI's Intelligence Division, headed by an FBI Assistant Director.

As is the case with the FBI's existing National Security Letter authority under the Right to Financial Privacy Act (see Senate Report 99–307, May 21, 1986, p. 16; House Report 99–952, October 1, 1986, p. 23), the Committee expects that, if the Director of the FBI delegates this function under paragraph 608(b)(1), as well as under paragraph 508(b)(2) discussed below, the Director will delegate it no further down than the level of FBI Deputy Assistant Director. (There are presently two Deputy Assistant Directors for the National Security Division, one with primary responsibility for counterintelligence investigations and the other with primary responsibility for international terrorism investigations.)

Paragraph 608(b)(2) would give the FBI mandatory access to the consumer identifying information—name, address, former addresses, places of employment, or former places of employment—that it may obtain under current section 608 only with the consent of the credit reporting agency. A consumer reporting agency would be required to provide access to such information when presented with a written request signed by the FBI Director or the Director's designee, which certifies compliance with the subsection. The Director

or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such information is necessary to the conduct of an authorized foreign counterintelligence investigation and that there is information giving reason to believe that the person about whom the information is sought has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

FBI officials have indicated that they seek mandatory access to this identifying information in order to determine if a person who has been in contact with a foreign power or agent is a government or industry employee who might have access to sensitive information of interest to a foreign intelligence service. Accordingly, the Committee has drafted this provision to require that such limited information can be provided only in circumstances where the consumer has been or is about to be in contact with the foreign power or agent.

The Committee has also drafted paragraphs 608(b)(1) and 608(b)(2) in a manner intended to make clear the Committee's intent that the FBI may use this authority to obtain the consumer records of only those persons who either are a foreign power or agent thereof or have been or will be in contact with a foreign power or agent. Although the consumer records of another person, such as a relative or friend of an agent of a foreign power, or identifying information respecting a relative or friend of a person in contact with an agent of a foreign power, may be of interest to FBI counterintelligence investigators, they are not subject to access under paragraphs 608(b)(1) and 608(b)(2).

It is not the Committee's intent to require any credit reporting agency to gather credit or identifying information on a person for the purpose of fulfilling an FBI request under paragraphs 608(b)(1) and 608(b)(2). A credit reporting agency's obligation under these provisions is to provide information responsive to the FBI's request that the credit reporting agency already has in its possession.

Paragraph 608(b)(3) provides that no consumer reporting agency or officer, employee, or agent of such institution shall disclose to any person, other than those officers, employees or agents of such institution necessary to fulfill the requirement to disclose information to the FBI under subsection 608(b), that the FBI has sought or obtained a consumer report or identifying information respecting any consumer under paragraphs 608(b)(1) or 608(b)(2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the FBI has sought or obtained such a consumer report or identifying information. The prohibition against including such information in a consumer report is intended to clarify the obligations of the consumer reporting agencies. It is not intended to preclude employees of consumer reporting agencies from complying with company regulations or policies concerning the reporting of information, nor to preclude their complying with a subpoena for such information issued pursuant to appropriate legal authority.

Paragraph 608(b)(3) departs from the parallel provision of the RFPA by clarifying that disclosure is permitted within the con-

tacted institution to the extent necessary to fulfill the FBI request. The Committee has not concluded, or otherwise taken a position whether, that disclosure for such purpose would be forbidden by the RFPA; indeed, practicalities would dictate that the provision not be interpreted to exclude such disclosure. However, the Committee believes that clarification of the obligation for purposes of the FCRA is desirable.

Paragraph 608(b)(4) requires the FBI, subject to the availability of appropriations, to pay to the consumer reporting agency assembling or providing credit records a fee in accordance with FCRA procedures for reimbursement for costs reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced under subsection 608(b). The FBI informs the Committee that such reports are commercially available for approximately $7 to $25 and that FBI could expect to pay fees in approximately that range. FBI officials have advised the Committee that the costs of such reports would be easily recouped from the savings afforded by the reduced need for other investigative techniques aimed at obtaining the same information.

Paragraph 608(b)(5) prohibits the FBI from disseminating information obtained pursuant to subsection 608(b) outside the FBI, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns military service personnel subject to the Uniform Code of Military Justice, to appropriate investigative authorities in the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation with the FBI. This is a far more restrictive limit on dissemination than that contained in the parallel FCRA provision, which permits dissemination outside the FBI to another government agency if Attorney General intelligence guidelines are satisfied and the information is clearly relevant to the agency's responsibilities. The Committee believes that this limitation is warranted in light of FBI's statement that it seeks access to the information only for limited purposes and in light of general concerns regarding the accuracy of credit report information. The FBI has indicated that it has no need to disseminate credit reports obtained under paragraph 608(b)(1) or information obtained under paragraph 608(b)(2) to other law enforcement or intelligence agencies, except where military service personnel are concerned. Since the military departments have concurrent jurisdiction to investigate and prosecute military personnel subject to the Uniform Code of Military Justice, paragraph 608(b)(5) permits the FBI to disseminate consumer credit reports it obtains pursuant to this section to appropriate military investigative authorities where a foreign counterintelligence investigation involves a military serviceperson and is being conducted jointly with the FBI.

Paragraph 608(b)(6) provides that nothing in subsection 608(b) shall be construed to prohibit information from being furnished by the FBI pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of the FCRA. The paragraph further provides that nothing in

subsection 608(b) shall be construed to authorize or permit the withholding of information from the Congress.

Paragraph 608(b)(7) provides that on a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to paragraphs 608(b)(1) and 608(b)(2).

Semiannual reports are required to be submitted to the intelligence committees on (1) use of FBI's mandatory access provision of the RFPA by section 3414(a)(5)(C) of title 15, United States Code; and (2) use of the FBI's counterintelligence authority, under the Electronic Privacy Communications Act of 1986, to access telephone subscriber and toll billing information by section 2709(e) of title 18, United States Code. The Committee expects the reports required by FCRA paragraph 608(b)(7) to match the level of detail included in these reports, i.e., a breakdown by quarter, by number of requests, by number of persons or organizations subject to requests, and by U.S. persons and organizations and non-U.S. persons and organizations.

Paragraphs 608(b)(8) through 608(b)(12) parallel the enforcement provisions of the Right to Financial Privacy Act, 12 U.S.C. 3417 and 3418.

Paragraph 608(b)(8) establishes civil penalties for access or disclosure by an agency or department of the United States in violation of subsection 608(b). Damages, costs and attorney fees would be awarded to the person to whom the consumer reports related in the event of a violation.

Paragraph 608(b)(9) provides that whenever a court determines that any agency or department of the United States has violated any provision of subsection 608(b) and that the circumstances surrounding the violation raise questions of whether an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was responsible for the violation.

Paragraph 608(b)(10) provides that any credit reporting institution or agent or employee thereof making a disclosure of credit records pursuant to subsection 608(b) in good-faith reliance upon a certificate by the FBI pursuant to the provisions of subsection 608(b) shall not be liable to any person for such disclosure under title 15, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

Paragraph 608(b)(11) provides that the remedies and sanctions set forth in subsection 608(b) shall be the only judicial remedies and sanctions for violations of the section.

Paragraph 608(b)(12) provides that, in addition to any other remedy contained in subsection 608(b), injunctive relief shall be available to require that the procedures of the section are compiled with and that in the event of any successful action, costs together with reasonable attorney's fees, as determined by the court, may be recovered.

COMMITTEE ACTION

On April 26, 1994, the Select Committee on Intelligence approved the bill by a vote of 15–2, and ordered that it be favorably reported.

ESTIMATE OF COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee attempted to estimate the costs which would be incurred in carrying out the provisions of this bill in fiscal year 1995 and in each of the five years thereafter if these amounts are appropriated. For fiscal year 1995, the estimated costs incurred in carrying out the provisions of this bill are set forth in the classified annex to this bill. Estimates of the costs incurred in carrying out this bill in the five fiscal years thereafter are not available from the Executive branch and, therefore, the Committee deems it impractical, pursuant to paragraph (11)(a)(3) of rule XXVI of the Standing Rules of the Senate, to include such estimates in this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to existing law, the Committee requested and received the following cost estimate from the Congressional Budget Office regarding this legislation:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 4, 1994.

Hon. DENNIS DECONCINI,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Intelligence Authorization Act for Fiscal Year 1995, as ordered reported by the Senate Select Committee on Intelligence on April 28, 1994. Enactment of the authorization act would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to prove them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: Unassigned.
2. Bill title: Intelligence Authorization Act for Fiscal Year 1995.
3. Bill status: As ordered reported by the Senate Select Committee on Intelligence on April 28, 1994.
4. Bill purpose: To authorize appropriations for fiscal year 1995 for intelligence activities of the United States Government, the Community Management Staff, and the Central Intelligence Agency Retirement and Disability System (CIARDS).

5. Estimated cost to the Federal Government of Titles I (except section 101–103), II, III (except section 301), IV, V and VI of the Intelligence Authorization Act for fiscal year 1995:

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
Authorization of appropriations	301	*	*	*	*
Estimated outlays	244	26	21	10	*

*Less than $500,000.

General

CBO was unable to obtain the necessary information to estimate the costs for Title I (except section 104) and section 301 of the Title III of this bill because they are classified at a level above clearances now held by CBO employees. The estimated costs in the table above, therefore, reflect only the costs of section 104 and Titles II, III (except section 301), IV, V, and VI.

Basis of Estimate

Section 104 authorizes appropriations of $103.3 million for 1995 for the Community Management Account of the Director of the Central Intelligence (DCI). Similarly, section 201 specifies an authorization of appropriations for a contribution to the Central Intelligence Agency Retirement and Disability Fund of $198 million. The estimate assumes that funds will be appropriated for the full amount of the authorization and that all funds will be available for obligation by October 1, 1994. Outlays are estimated based on historical outlay rates.

Section 503 would establish a National Public Information Center, which is to make unclassified information more accessible to the public. Of the funds that would be made available from this bill, not more than $3 million could be expended for this purpose.

Section 601 extends access to consumer credit records to the Federal Bureau of Investigation provided that such information is to be used for an authorized foreign counterintelligence investigation. Costs associated with this provision should be insignificant.

6. Pay-as-you-go-considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. This authorization bill would not affect direct spending or receipts. Therefore, this bill has no pay-as-you-go implications.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Elizabeth A. Chambers.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXXVI of the Standing Rules of the Senate, the Committee finds no regulatory impact will be incurred by implementing the provisions of this legislation.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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