

July 26, 1947

Harry S. Truman

XXXIII President of United States 1945-1953

NATIONAL SECURITY ACT OF 1947

(As Amended)

ACT OF JULY 26, 1947

AN ACT To promote the national security by providing for a Secretary of Defense; for a National Military Establishment; for a Department of the Army, a Department of the Navy, and a Department of the Air Force; and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

That [50 U.S.C. 401 note] this Act may be cited as the "National Security Act of 1947".

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DECLARATION OF POLICY

SEC. 2. [50 U.S.C. 401] In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to

eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

DEFINITIONS

SEC. 3. [50 U.S.C. 401a] As used in this Act:

(1) The term "intelligence" includes foreign intelligence and counterintelligence.

(2) The term "foreign intelligence" means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means information gathered, and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term "intelligence community" includes -

(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 105(b)(3)), and such other offices as the Director may designate;

(B) the Central Intelligence Agency;

(C) the National Security Agency;

(D) the Defense Intelligence Agency;

(F) the National Reconnaissance Office;

(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard;

(I) the Bureau of Intelligence and Research of the Department of State;

(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and

(K) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms "national intelligence" and "intelligence-related to the national security" -

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.

(6) The term "National Foreign Intelligence Program" refers to 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 United States Armed Forces.

(7) The term `congressional intelligence committees' means--

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE I - COORDINATION FOR NATIONAL SECURITY

NATIONAL SECURITY COUNCIL

Sec. 101. [U.S.C. 402] (a) There is hereby established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: Provided, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of [4] -

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) the Director for Mutual Security;
- (6) the Chairman of the National Security Resources Board; and

(7) the Secretaries and Under Secretaries of other executive departments and the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council -

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President, and who shall receive compensation at the rate of \$10,000 a year.[5] The executive secretary, subject to the direction of the Council, is hereby authorized, subject to the civil-service laws and the Classification Act of 1923, as amended,[6] to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

(e) The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(f) The Director of National Drug Control Policy may, in his role as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.[7]

(g) The President shall establish with the National Security Council a board to be known as the "Board for Low Intensity Conflict".

The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

(h)(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the "Committee").

(2) The Committee shall be composed of the following:

(A) The Director of Central Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(E) Such other members as the President may designate.

(3) The function of the Committee shall be to assist the Council in its activities by -

(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

(4) In carrying out its function, the Committee shall -

(A) conduct an annual review of the national security interests of the United States;

(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

(5) The Committee shall submit each year to the Council and to the Director of Central Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).

(i)(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the "Committee").

(2) The Committee shall include the following members:

(A) The Director of Central Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Attorney General.

(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(F) Such other members as the President may designate.

(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combating transnational threats.

(4) In carrying out its function, the Committee shall

(A) identify transnational threats;

(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

(C) monitor implementation of such strategies;

(D) make recommendations as to appropriate responses to specific transnational threats;

(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

(5) For purposes of this subsection, the term "transnational threat" means the following:

(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

(B) Any individual or group that engages in an activity referred to in subparagraph (A).

(j) The Director of Central Intelligence (or, in the Director's absence, the Deputy Director of Central Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.

OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

SEC. 102. [50 U.S.C. 403] (a) DIRECTOR of CENTRAL INTELLIGENCE. - There is a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall -

(1) serve as head of the United States intelligence community;

(2) act as the principal adviser to the President for intelligence matters related to the national security; and

(3) serve as head of the Central Intelligence Agency.

(b) DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE. - (1) There is a Deputy Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) There is a Deputy Director of Central Intelligence for Community Management who shall be appointed by the President, by and with the advice and consent of the Senate.

(3) Each Deputy Director of Central Intelligence shall have extensive national security expertise.

(c) MILITARY STATUS OF DIRECTOR AND DEPUTY DIRECTORS. -(1)(A) Not more than one of the individuals serving in the positions specified in subparagraph (B) may be a commissioned officer of the Armed Forces, whether in active or retired status.

(B) The positions referred to in subparagraph (A) are the following:

(i) The Director of Central Intelligence.

(ii) The Deputy Director of Central Intelligence.

(iii) The Deputy Director of Central Intelligence for Community Management.

(2) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (1)(B) -

(A) be a commissioned officer of the Armed Forces, whether in active or retired status; or

(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

(3) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (1)(B) -

(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(C) shall not be counted against the numbers and percent ages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

(4) Except as provided in subparagraph (A) or (B) of paragraph (3), the appointment of an officer of the Armed Forces to a position specified in paragraph (1)(B) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

(5) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (1)(B), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of Central Intelligence.

(d) DUTIES OF DEPUTY DIRECTORS. - (1)(A) The Deputy Director of Central Intelligence shall assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act.

(B) The Deputy Director of Central Intelligence shall act for, and exercise the powers of, the Director of Central Intelligence during the Director's absence or disability or during a vacancy in the position of the Director of Central Intelligence.

(2) The Deputy Director of Central Intelligence for Community Management shall, subject to the direction of the Director of Central Intelligence, be responsible for the following:

(A) Directing the operations of the Community Management Staff.

(B) Through the Assistant Director of Central Intelligence for Collection, ensuring the efficient and effective collection of national intelligence using technical means and human sources.

(C) Through the Assistant Director of Central Intelligence for Analysis and Production, conducting oversight of the analysis and production of intelligence by elements of the intelligence community.

(D) Through the Assistant Director of Central Intelligence for Administration, performing community-wide management functions of the intelligence community, including the management of personnel and resources.

(3)(A) The Deputy Director of Central Intelligence takes precedence in the Office of the Director of Central Intelligence immediately after the Director of Central Intelligence.

(B) The Deputy Director of Central Intelligence for Community Management takes precedence in the Office of the Director of Central Intelligence immediately after the Deputy Director of Central Intelligence.

(e) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE. - (1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

(2) The Office of the Director of Central Intelligence is composed of the following:

(A) The Director of Central Intelligence.

(B) The Deputy Director of Central Intelligence.

(C) The Deputy Director of Central Intelligence for Community Management.

(D) The National Intelligence Council.

(E) The Assistant Director of Central Intelligence for Collection.

(F) The Assistant Director of Central Intelligence for Analysis and Production.

(G) The Assistant Director of Central Intelligence for Administration.

(H) Such other offices and officials as may be established by law or the Director of Central Intelligence may establish or designate in the Office.

(3) To assist the Director in fulfilling the responsibilities of the Director as head of the intelligence community, the Director shall employ and utilize in the Office of the Director of Central Intelligence a professional staff having an expertise in matters relating to such responsibilities and may establish permanent positions and appropriate rates of pay with respect to that staff.

(4) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.

(f) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION. - (1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Collection who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Assistant Director for Collection shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.

(g) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ANALYSIS AND PRODUCTION. - (1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Analysis and Production who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Assistant Director for Analysis and Production shall -

(A) oversee the analysis and production of intelligence by the elements of the intelligence community;

(B) establish standards and priorities relating to such analysis and production;

(C) monitor the allocation of resources for the analysis and production of intelligence in order to identify unnecessary duplication in the analysis and production of intelligence;

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

(E) identify intelligence to be collected for purposes of the Assistant Director of Central Intelligence for Collection; and

(F) provide such additional analysis and production of intelligence as the President and the National Security Council may require.

(h) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ADMINISTRATION. - (1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require.

CENTRAL INTELLIGENCE AGENCY

SEC. 102A. [50 U.S.C. 403-1] There is a Central Intelligence Agency. The function of the Agency shall be to assist the Director of Central Intelligence in carrying out the responsibilities referred to in paragraphs (1) through (5) of section 103(d) of this Act.

RESPONSIBILITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

SEC. 103. (50 U.S.C. 403-3] (a) PROVISION OF INTELLIGENCE. (1) Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing national intelligence -

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

(D) where appropriate, to the Senate and House of Representatives and the committees thereof.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

(b) NATIONAL INTELLIGENCE COUNCIL. - (1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the Council"). The Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence.

(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(2) The Council shall -

(A) produce national intelligence estimates for the Government, including, whenever the Council considers appropriate, alternative views held by elements of the intelligence community;

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the Director in carrying out the responsibilities described in subsection (a).

(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the

intelligence community for purposes of representing the views of the intelligence community within the Government.

(4) Subject to the direction and control of the Director of Central Intelligence, the Council may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this subsection.

(5) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence. The Council shall also be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(6) The heads of elements within the intelligence community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.

(c) HEAD OF THE INTELLIGENCE COMMUNITY. - In the Director's capacity as head of the intelligence community, the Director shall -

(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by

(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; and

(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;

(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community;

(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;

(4) promote and evaluate the utility of national intelligence to consumers within the Government;

(5) eliminate waste and unnecessary duplication within the intelligence community;

(6) establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et

seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for foreign intelligence purposes, except that the Director shall have no authority to direct, manage, or undertake electronic surveillance or physical search operations pursuant to that Act unless otherwise authorized by statute or Executive Order;

(7) protect intelligence sources and methods from unauthorized disclosure; and

(8) perform such other functions as the President or the National Security Council may direct.

(d) HEAD OF THE CENTRAL INTELLIGENCE AGENCY. - In the Director's capacity as head of the Central Intelligence Agency, the Director shall -

(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

(2) provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

(3) correlate and evaluate intelligence-related to the national security and provide appropriate dissemination of such intelligence;

(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct.

AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

SEC. 104. [50 U.S.C. 403-4] (a) ACCESS TO INTELLIGENCE. - To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence-related to the national security which is collected by any department, agency, or other entity of the United States.

(b) APPROVAL OF BUDGETS. - The Director of Central Intelligence shall provide guidance to elements of the intelligence community for the preparation of their annual

budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

(c) **ROLE OF DCI IN REPROGRAMMING.** - No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the intelligence community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director. The Secretary of Defense shall consult with the Director of Central Intelligence before reprogramming funds made available under the Joint Military Intelligence Program.

(d) **TRANSFER OF FUNDS OR PERSONNEL WITHIN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.** (1)(A) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to a year.

(B) The Director may only delegate any duty or authority given the Director under this subsection to the Director of Central Intelligence for Community Management..

(2)(A) A transfer of funds or personnel may be made under this subsection only if -

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

(iv) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

(v) subject to subparagraph (B), the Secretary or head of the department which contains the affected element or elements of the intelligence community does not object to such transfer.

(B)(i) Except as provided in clause (ii), the authority to object to a transfer under subparagraph (A)(v) may not be delegated by the Secretary or head of the department involved.

(ii) With respect to the Department of Defense, the authority to object to such a transfer may be delegated by the Secretary of Defense, but only to the Deputy Secretary of Defense.

(iii) An objection to a transfer under subparagraph (A)(v) shall have no effect unless submitted to the Director of Central Intelligence in writing.

(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this section.

(5) The Director shall promptly submit to the congressional intelligence committees and, in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(e) COORDINATION WITH FOREIGN GOVERNMENTS. - Under direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence-related to the national security or involving intelligence acquired through clandestine means.

(f) USE OF PERSONNEL. - The Director shall, in coordination with the heads of departments and agencies with elements in intelligence community, institute policies and programs within the intelligence community -

(1) to provide for the rotation of personnel between the elements of the intelligence community, where appropriate, and to make such rotated service a factor for promotion to senior positions; and

(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the intelligence community.

(g) **STANDARDS AND QUALIFICATIONS FOR PERFORMANCE OF INTELLIGENCE ACTIVITIES-** The Director, acting as the head of the intelligence community, shall, in consultation with the heads of effected agencies, develop standards and qualifications for persons engaged in the performance of intelligence activities within the intelligence community.

(h) **TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.** - Notwithstanding THE PROVISIONS OF ANY OTHER LAW, THE director may, in the Director's discretion, terminate employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect the right of the officer or employee terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.

RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM

Sec. 105. [50 U.S.C. 403-5] (a) **IN GENERAL.** - The Secretary of Defense, in consultation with the Director of Central Intelligence, shall -

(1) ensure that the budgets of the elements on the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) RESPONSIBILITY FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS. - Consistent with sections 103 and 104 of this Act, the Secretary of Defense shall ensure -

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the National Imagery and Mapping Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense -

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law, for prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information;

(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet

(A) the requirements of the Director of Central Intelligence;

(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

(C) the requirements of the unified and specified combatant commands and of joint operations; and

(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

(c) USE OF ELEMENTS OF DEPARTMENT OF DEFENSE. - The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

(d) ANNUAL EVALUATION OF PERFORMANCE AND RESPONSIVENESS OF CERTAIN ELEMENTS OF INTELLIGENCE COMMUNITY- (1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the evaluation described in paragraph (3).

(2) The Director shall submit each year to the Committee on Foreign Intelligence of the National Security Council, and to the Committees on Armed Services and Appropriations of the Senate and House of Representatives, the evaluation described in paragraph (3).

(3) An evaluation described in this paragraph is an evaluation of the performance and responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their respective national missions.

(4) The Director shall submit each evaluation under this subsection in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.

ASSISTANCE TO UNITED STATES LAW ENFORCEMENT AGENCIES

SEC. 105A. [50 U.S.C. 403-5a] (a) AUTHORITY TO PROVIDE ASSISTANCE. - Subject to subsection (b), elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF DEPARTMENT OF DEFENSE. - (1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the following:

- (A) The National Security Agency.
- (B) The National Reconnaissance Office.
- (C) The National Imagery and Mapping Agency.
- (D) The Defense Intelligence Agency,

(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

(c) DEFINITIONS. - For purposes of subsection (a):

(1) The term "United States law enforcement agency" means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

(2) The term "United States person" means the following:

- (A) A United States citizen.
- (B) An alien known by the intelligence agency concerned to be a permanent resident alien.
- (C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.
- (D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN CRIMINAL INVESTIGATIONS;

NOTICE OF CRIMINAL INVESTIGATIONS OF FOREIGN SOURCES

Sec. 105B. [50 USC 403-5b] (a) Disclosure of Foreign Intelligence.--(1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of Central Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

(2) The Attorney General by regulation and in consultation with the Director of Central Intelligence may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

(b) Procedures for Notice of Criminal Investigations.--Not later than 180 days after the date of enactment of this section, the Attorney General, in consultation with the Director of Central Intelligence, shall develop guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director of Central Intelligence, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

(c) Procedures.--The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) and the provision of notice with respect to criminal investigations under subsection (b)."

PROTECTION OF OPERATIONAL FILES OF THE NATIONAL IMAGERY AND MAPPING AGENCY

SEC. 105C. [50 U.S.C. 403-5c] (a) Exemption of Certain Operational Files From Search, Review, Publication, or Disclosure.--(1) The Director of the National Imagery and Mapping Agency, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Imagery and Mapping Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term 'operational files' means files of the National Imagery and Mapping Agency (hereafter in this section referred to as 'NIMA') concerning the activities of NIMA that before the

establishment of NIMA were performed by the National Photographic Interpretation Center of the Central Intelligence Agency (NPIC), that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning--

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The congressional intelligence committees.

(ii) The Intelligence Oversight Board.

(iiv) The Department of Justice.

(iv) The Office of General Counsel of NIMA.

(v) The Office of the Director of NIMA.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NIMA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NIMA, such information shall be examined *ex parte*, *in camera* by the court.

(ii) <<NOTE: Courts.>> The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NIMA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

(II) The court may not order NIMA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NIMA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NIMA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NIMA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in

accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NIMA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

(b) Decennial Review of Exempted Operational Files.--(1) Not less than once every 10 years, the Director of the National Imagery and Mapping Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NIMA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NIMA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NIMA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.'

PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE

SEC. 105D. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE- (1) The Director of the National Reconnaissance Office, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term 'operational files' means files of the National Reconnaissance Office (hereafter in this section referred to as 'NRO') that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning--

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The Permanent Select Committee on Intelligence of the House of Representatives.

(ii) The Select Committee on Intelligence of the Senate.

(iii) The Intelligence Oversight Board.

(iv) The Department of Justice.

(v) The Office of General Counsel of NRO.

(vi) The Office of the Director of NRO.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined *ex parte*, *in camera* by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES- (1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

SEC. 106. [50 U.S.C. 403-6] (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before recommending to the President an individual for appointment to the position. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

(2) Paragraph (1) applies to the following positions:

- (A) The Director of the National Security Agency.
- (B) The Director of the National Reconnaissance Office.
- (C) The Director of the National Imagery and Mapping Agency.

(b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.. - (1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

- (A) The Director of the Defense Intelligence Agency.
- (B) The Assistant Secretary of State for Intelligence and Research.
- (C) The Director of Intelligence and the Director of the Office of Counterintelligence of the Department of Energy.

(3) In the event of a vacancy in the position of the Assistant' Director, National Security Division of the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation shall provide timely notice to the Director of Central Intelligence of the recommendation of the Director of the Federal Bureau of Investigation of an individual to fill the position in order that the Director of Central Intelligence may consult with the Director of the Federal Bureau of Investigation before the Attorney General appoints an individual to fill the vacancy.

NATIONAL SECURITY RESOURCES BOARD[8]

SEC. 107. [50 U.S.C. 404] (a) The Director of the Office of Defense Mobilization,[9] subject to the direction of the President, is authorized, subject to the civil-service laws and the Classification Act of 1949,[10] to appoint and fix the compensation of such personnel as may be necessary to assist the Director in carrying out his functions.

(b) It shall be the function of the Director of the Office of Defense Mobilization to advise the President concerning the coordination of military, industrial, and civilian mobilization, including

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war.

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

(c) In performing his functions, the Director of the Office of Defense Mobilization shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

ANNUAL NATIONAL SECURITY STRATEGY REPORT

SEC. 108. [50 U.S.C. 404a] (a)(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a national security strategy report").

(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31, United States Code.

(3) Not later than 150 days after the date on which a new President takes office, the President shall transmit to Congress a national security strategy report under this section.. That report shall be in addition to the report for that year transmitted at the time specified in paragraph (2).

(b) Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

(c) Each national security strategy report shall be transmitted in both a classified and an unclassified form.

ANNUAL REPORT ON INTELLIGENCE

SEC. 109. (a) IN GENERAL. - (1) Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

(3) The report shall be submitted in unclassified form, but may include a classified annex.

(b) MATTERS COVERED. - (1) Each report under subsection (a) shall

(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

(B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

(c)[11] DEFINITION. - In this section, the term "appropriate congressional committees" means the following:

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

(2) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Armed Services of the House of Representatives.

(c)[11] TIME FOR SUBMISSION. - The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31, United States Code.

NATIONAL MISSION OF NATIONAL IMAGERY AND MAPPING AGENCY

SEC. 110. [50 U.S.C. 404e] (a) IN GENERAL - In addition to the Department of Defense missions set forth in section 442 of title 10, United States Code, the National Imagery and Mapping Agency shall support the imagery requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense.

(b) REQUIREMENTS AND PRIORITIES. - The Director of Central Intelligence shall establish requirements and priorities governing the collection of national intelligence by the National Imagery and Mapping Agency under subsection (a).

(c) CORRECTION OF DEFICIENCIES. - The Director of Central Intelligence shall develop and implement such programs and policies as the Director and the Secretary of Defense jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Imagery and Mapping Agency to accomplish assigned national missions, including support to the all-source analysis and production process. The Director shall consult with the Secretary of Defense on the development and

implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.

COLLECTION TASKING AUTHORITY

SEC. 111. [50 U.S.C. 404f] Unless otherwise directed by the President, the Director of Central Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to -

- (1) approve collection requirements levied on national imagery collection assets;
- (2) determine priorities for such requirements; and
- (3) resolve conflicts in such priorities.

RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

SEC. 112. [50 U.S.C. 404g] (a) PROVISION OF INTELLIGENCE INFORMATION TO THE UNITED NATIONS. - (1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

(b) PERIODIC AND SPECIAL REPORTS. - (1) The President shall report semiannually to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

(c) DELEGATION OF DUTIES. - The President may not delegate or assign the duties of the President under this section.

(d) RELATIONSHIP TO EXISTING LAW. - Nothing in this section shall be construed to -

(1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(6) of this Act; or

(2) supersede or otherwise affect the provisions of title V of this Act.

(e) DEFINITION. - As used in this section, the term "appropriate committees of Congress" means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

DETAIL OF INTELLIGENCE COMMUNITY PERSONNEL-INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM

SEC. 113. [50 U.S.C. 404h] (a) DETAIL. - (1) Notwithstanding any other provision of law, the head of a department with an element in the intelligence community or the head of an intelligence community agency or element may detail any employee within that department, agency, or element to serve in any position in the Intelligence Community Assignment Program on a reimbursable or nonreimbursable basis.

(2) Nonreimbursable details may be for such periods as agreed to between the heads of the parent and host agencies, to a maximum of three years, except that such details may be extended for a period not to exceed one year when the heads of the parent and host agencies determine that such extension is in the public interest.

(b) BENEFITS, ALLOWANCES, TRAVEL, INCENTIVES. - (1) An employee detailed under subsection (a) may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which the employee is detailed.

(2) The head of an agency of an employee detailed under subsection (a) may pay a lodging allowance for the employee subject to the following conditions:

(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of Central Intelligence and --

(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station before the detail.

(C) The lodging is within a reasonable proximity of the host agency duty station.

(D) The distance between the detailed employee's parent agency duty station and host agency duty station is greater than 20 miles.

(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employee's parent duty station.

(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS-15 of the General Schedule.

ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF CENTRAL INTELLIGENCE

SEC. 114. [50 U.S.C. 404i] (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) ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES- (1) The Director of Central Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

(i) Positions at levels 1 through 15 of the General Schedule.

(ii) Positions at levels above GS-15.

(C) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

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

(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

(5) In this subsection, the term 'covered persons' means--

- (A) racial and ethnic minorities;
- (B) women; and
- (C) individuals with disabilities.

(d) ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION- (1) Not later each year than the date provided in section 507, the Director shall submit to the congressional committees specified in paragraph (3) a report assessing the following:

(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.

(3) The congressional committees referred to in paragraph (1) are the following:

- (A) The congressional intelligence committees.
- (B) The Committees on Foreign Relations and Armed Services of the Senate.

(C) The Committees on International Relations and Armed Services of the House of Representatives.

(e) ANNUAL REPORT ON COVERT LEASES- (1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees a report on each covert lease of an element of the intelligence community that is in force as of the end of the preceding year..

(2) Each report under paragraph (1) shall include the following:

- (A) A list of each lease described by that paragraph.
- (B) For each lease--

- (i) the cost of such lease;
- (ii) the duration of such lease;
- (iii) the purpose of such lease; and
- (iv) the directorate or office that controls such lease.

(f) CONGRESSIONAL LEADERSHIP DEFINED- In this section, 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.

ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS FOR AUDITING PURPOSES

SEC. 114A. Not later each year than the date provided in section 507, the Director of Central Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Imagery and Mapping Agency shall each submit to the congressional intelligence committees a report describing the activities being undertaken by such official to ensure that the financial statements of such agency can be audited in accordance with applicable law and requirements of the Office of Management and Budget.

LIMITATION ON ESTABLISHMENT OR OPERATION OF DIPLOMATIC INTELLIGENCE SUPPORT CENTERS

SEC. 115. [50 U.S.C. 404j] (a) IN GENERAL- (1) A diplomatic intelligence support center may not be established, operated, or maintained without the prior approval of the Director of Central Intelligence.

(2) The Director may only approve the establishment, operation, or maintenance of a diplomatic intelligence support center if the Director determines that the establishment, operation, or maintenance of such center is required to provide necessary intelligence support in furtherance of the national security interests of the United States.

(b) PROHIBITION OF USE OF APPROPRIATIONS- Amounts appropriated pursuant to authorizations by law for intelligence and intelligence-related activities may not be obligated or expended for the establishment, operation, or maintenance of a diplomatic intelligence support center that is not approved by the Director of Central Intelligence.

(c) DEFINITIONS- In this section:

(1) The term 'diplomatic intelligence support center' means an entity to which employees of the various elements of the intelligence community (as defined in section 3(4)) are detailed for the purpose of providing analytical intelligence support that--

(A) consists of intelligence analyses on military or political matters and expertise to conduct limited assessments and dynamic taskings for a chief of mission; and

(B) is not intelligence support traditionally provided to a chief of mission by the Director of Central Intelligence.

(2) The term 'chief of mission' has the meaning given that term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(3)), and includes ambassadors at large and ministers of diplomatic missions of the United States, or persons appointed to lead United States offices abroad designated by the Secretary of State as diplomatic in nature.

(d) TERMINATION- This section shall cease to be effective on October 1, 2000.

TRAVEL ON ANY COMMON CARRIER FOR CERTAIN INTELLIGENCE COLLECTION PERSONNEL

SEC. 116. (a) IN GENERAL - Notwithstanding any other provision of law, the Director of Central Intelligence may authorize travel on any common carrier when such travel, in the discretion of the Director--

(1) is consistent with intelligence community mission requirements, or

(2) is required for cover purposes, operational needs, or other exceptional circumstances necessary for the successful performance of an intelligence community mission.

(b) AUTHORIZED DELEGATION OF DUTY - The Director may only delegate the authority granted by this section to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency the Director may delegate such authority to the Deputy Director for Operations.

POW/MIA ANALYTIC CAPABILITY

SEC. 117. (a) REQUIREMENT - (1) The Director of Central Intelligence shall, in consultation with the Secretary of Defense, establish and maintain in the intelligence community an analytic capability with responsibility for intelligence in support of the activities of the United States relating to individuals who, after December 31, 1990, are unaccounted for United States personnel.

(2) The analytic capability maintained under paragraph (1) shall be known as the 'POW/MIA analytic capability of the intelligence community'.

(b) UNACCOUNTED FOR UNITED STATES PERSONNEL - In this section, the term 'unaccounted for United States personnel' means the following:

(1) Any missing person (as that term is defined in section 1513(1) of title 10, United States Code).

(2) Any United States national who was killed while engaged in activities on behalf of the United States and whose remains have not been repatriated to the United States.

SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS

SEC. 118. (a) SEMIANNUAL REPORT- On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period--

(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;

(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

(b) IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION- In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

(c) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES- In the case of the reports required to be submitted under subsection (a) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED- In this section, the term 'appropriate congressional committees' means the following:

(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

(2) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TITLE II - THE DEPARTMENT OF DEFENSE

SEC. 201. [Subsections (a) and (b) were repealed by section 30 of Public Law 87-651 (Act of September 7, 1962, 76 Stat. 526 Subsection (c) consisted of an amendment to another Act.]

(d) [50 U.S.C. 408] Except to the extent inconsistent with the provisions of this Act, the provisions of title IV of the Revised Statutes[12] as now of hereafter amended shall be applicable to the Department of Defense.

[Sections 202-204 were repealed by section 307 of Public Law 87-651 (Act of September 7, 1962, 76 Stat. 526).]

DEPARTMENT OF THE ARMY

SEC;. 205. [Subsections (a), (d), and (e) were repealed by the law enacting titles 10 and 32, United States Code (Act of August 10, 1956, 70A Stat. 676)].

(b) All laws, orders, regulations, and other actions relating to the Department of War or to any officer or activity whose title is changed under this section shall, insofar as they are not inconsistent with the provisions of this Act, be deemed to relate to the Department of the Army within the Department of Defense or to such officer or activity designated by his or its new title.

(c) [50 U.S.C. 409(a)] the term "Department of the Army" as used in this Act shall be construed to mean the Department of the Army at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

DEPARTMENT OF THE NAVY

SEC. 206. (a) [50 U.S.C. 409(b)] The term "Department of the Navy" as used in this Act shall be construed to mean the Department of the Navy at the seat of government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces all field activities, headquarters, forces, bases, installations, activities and functions under the control or supervision of the Department

of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

[Subsections (b) and (c) were repealed by the law enacting titles 10 and 32, United States Code (Act of August 10, 1956, 70A Stat. 676)].

DEPARTMENT OF THE AIR FORCE

SEC 207. [Subsections (a), (b), (d), (e), and (f) were repealed by the law enacting titles 10 and 32, United States Code (Act of August 10, 1956, 70A stat.

676)].

(c) (50 U.S.C. 409(c)] The term "Department of the Air Force" as used in this Act shall be construed to mean the Department of the Air Force at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

[Section 208 (less subsection (c)) was repealed by the law enacting titles 10 and 32, United States Code (Act of August 10, 1956, 70A Stat. 676). Section 208(c) was repealed by the law enacting title 5, United States Code (Public Law 89-544 September 6 1966, 80 Stat. 654).]

[Sections 209-214 were repealed by the law enacting titles 10 and 32, United States Code (Act of August 10, 1956, 70A Stat. 676).]

TITLE III - MISCELLANEOUS

NATIONAL SECURITY AGENCY VOLUNTARY SEPARATION

SEC.. 301. (a) SHORT TITLE- This section may be cited as the 'National Security Agency Voluntary Separation Act'.

(b) DEFINITIONS- For purposes of this section--

(1) the term `Director' means the Director of the National Security Agency; and

(2) the term `employee' means an employee of the National Security Agency, serving under an appointment without time limitation, who has been currently employed by the National Security Agency for a continuous period of at least 12 months prior to the effective date of the program established under subsection (c), except that such term does not include--

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(c) ESTABLISHMENT OF PROGRAM- Notwithstanding any other provision of law, the Director, in his sole discretion, may establish a program under which employees may, after October 1, 2000, be eligible for early retirement, offered separation pay to separate from service voluntarily, or both.

(d) EARLY RETIREMENT- An employee who--

(1) is at least 50 years of age and has completed 20 years of service; or

(2) has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the National Security Agency and receive benefits in accordance with chapter 83 or 84 of title 5, United States Code, if the employee has not less than 10 years of service with the National Security Agency.

(e) AMOUNT OF SEPARATION PAY AND TREATMENT FOR OTHER PURPOSES-

(1) AMOUNT- Separation pay shall be paid in a lump sum and shall be equal to the lesser of--

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(B) \$25,000.

(2) TREATMENT- Separation pay shall not--

(A) be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(B) be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(f) REEMPLOYMENT RESTRICTIONS- An employee who receives separation pay under such program may not be reemployed by the National Security Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103-236; 108 Stat. 111) and accepts employment with the

Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the National Security Agency. If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(g) BAR ON CERTAIN EMPLOYMENT-

(1) BAR- An employee may not be separated from service under this section unless the employee agrees that the employee will not--

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the National Security Agency; or

(B) participate in any manner in the award, modification, or extension of any contract for property or services with the National Security Agency, during the 12-month period beginning on the effective date of the employee's separation from service.

(2) PENALTY- An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section multiplied by the proportion of the 12-month period during which the employee was in violation of the agreement.

(h) LIMITATIONS- Under this program, early retirement and separation pay may be offered only--

(1) with the prior approval of the Director;

(2) for the period specified by the Director; and

(3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(i) REGULATIONS- Before an employee may be eligible for early retirement, separation pay, or both, under this section, the Director shall prescribe such regulations as may be necessary to carry out this section.

(j) NOTIFICATION OF EXERCISE OF AUTHORITY- The Director may not make an offer of early retirement, separation pay, or both, pursuant to this section until 15 days after submitting to the congressional intelligence committees a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (h), and includes the proposed regulations issued pursuant to subsection (i).

(k) REMITTANCE OF FUNDS- In addition to any other payment that is required to be made under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, an amount equal to 15 percent of the final basic pay of each employee to whom a voluntary separation payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).

[Section 302 was repealed by the law enacting titles 10 and 32, United States Code (Act of August 10, 1956, 70A Stat. 676).]

ADVISORY COMMITTEES AND PERSONNEL

SEC. 303. [50 U.S.C. 405] (a) The Director of the Office of Defense Mobilization, the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS-18 of the General Schedule established by section 5332 of title 5, United States Code as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 203, 205, or 207, of title 18, United States Code, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

[Sections 304-306 were repealed by the law enacting title 5, United States Code (Public Law 89-544, September 6, 1966, 80 Stat. 654).]

AUTHORIZATION FOR APPROPRIATIONS

SEC. 307. [50 U.S.C. 411] There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 and titles V, VI, and VII).

DEFINITIONS

SEC. 308. [50 U.S.C. 410] (a)[13] As used in this Act, the term "function" includes functions, powers, and duties.

(b) As used in this Act, the term, "Department of Defense" shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.

SEPARABILITY

SEC. 309. [50 U.S.C. 401 note] If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 310. [50 U.S.C. 401 note] (a) The first sentence of section 202 (a) and sections 1, 2, 307, 308, 309, and 310 shall take effect immediately upon the enactment of this Act.

(b) Except as provided in subsection (a), the provisions of this Act shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act.

SUCCESSION TO THE PRESIDENCY

SEC. 311. [Section 311 consisted of an amendment to the Act entitled "An Act to provide for the performance of the duties of the office of President in case of the removal, resignation, death, or inability both of the President and Vice President".]

[Title IV less section 411 was repealed by section 307 of Public Law 87-651 (Act of September 7, 1962, 76 Stat. 526).]

REPEALING AND SAVING PROVISIONS

SEC. 411. [50 U.S.C. 412] All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: Provided, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title.

TITLE V - ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

GENERAL CONGRESSIONAL OVERSIGHT PROVISIONS

SEC. 501. [50 U.S.C. 413] (a)(1) The President shall ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this title.

(2) Nothing in this title shall be construed as requiring the approval of the congressional intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.

(b) The President shall ensure that any illegal intelligence activity is reported promptly to the congressional intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

(c) The President and the congressional intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of this title.

(d) The House of Representatives and the Senate shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the congressional intelligence committees or to Members of Congress under this title. Such procedures shall be established in consultation with the Director of Central Intelligence. In accordance with such procedures, each of the congressional intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

(e) Nothing in this Act shall be construed as authority to withhold information from the congressional intelligence committees on the grounds that providing the information to the congressional intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

(f) As used in this section, the term "intelligence activities" includes covert actions as defined in section 503(e), and includes financial intelligence activities.

REPORTING OF INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS

SEC. 502. [50 U.S.C. 413a] To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall -

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 503(e)), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the congressional intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

PRESIDENTIAL APPROVAL AND REPORTING OF COVERT ACTIONS

SEC. 503. [50 U.S.C. 413b] (a) The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

(2) Except as permitted by paragraph (1), a finding may not authorize or sanction a covert action, or any aspect of any such action, which already has occurred.

(3) Each finding shall specify each department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such action. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation..

(4) Each finding shall specify whether it is contemplated that any third party which is not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action -

(1) shall keep the congressional intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

(2) shall furnish to the congressional intelligence committees any information or material concerning covert actions which is in the possession custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(c)(1) The President shall ensure that any finding approved pursuant to subsection (a) shall be reported to the congressional intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

(2) if the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.

(3) Whenever a finding is not reported pursuant to paragraph (1) or (2) of this section, the President shall fully inform the congressional intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each congressional intelligence committee. When access to a finding is limited to the Members of Congress specified in paragraph (2), a statement of the reasons for limiting such access shall also be provided.

(d) The President shall ensure that the congressional intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2), are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c).

(e) As used in this title, the term "covert action" means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include -

(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) traditional diplomatic or military activities or routine support to such activities;

(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(f) No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

FUNDING OF INTELLIGENCE ACTIVITIES

SEC. 504. [50 U.S.C. 414] (a) Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if -

(1) those funds were specifically authorized by the Congress for use for such activities; or

(2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 503 of this Act concerning any significant anticipated intelligence activity, the Director of Central Intelligence has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(3) in the case of funds specifically authorized by the Congress for a different activity -

(A) the activity to be funded is a higher priority intelligence or intelligence-related activity;

(B) the need for funds for such activity is based on unforeseen requirements;
and

(C) the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity;

(4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

(c) No funds appropriated for, or otherwise available to, any department agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 503(e), unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.

(d)(1) Except as otherwise specifically provided by law, funds available to an intelligence agency that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify -

(A) the types of activities for which nonappropriated funds may be expended;
and

(B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.

(2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the congressional intelligence committees and, as appropriate, the Director of Central Intelligence or the Secretary of Defense.

(e) As used in this section -

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the term "appropriate congressional committees" means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and

(3) the term "specifically authorized by the Congress" means that -

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent .

that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 505. [50 U.S.C. 415] (a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services, exceeding \$1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this title.

(2) Paragraph (1) does not apply if -

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer -

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(a) of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section -

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms "defense articles" and "defense services" mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);

(3) the term "transfer" means -

(A) in the case of defense articles, the transfer of possession of those articles;
and

(B) in the case of defense services, the provision of those services; and

(4) the term "value" means -

(A) in the case of defense articles, the greater of -

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE

SEC. 506. (a) IN GENERAL- The budget justification materials submitted to Congress in support of the budget of the

President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall set forth separately the aggregate amount requested for that fiscal year for the National Foreign Intelligence Program for each of the following:

- (1) Counterterrorism.
- (2) Counterproliferation.
- (3) Counternarcotics.
- (4) Counterintelligence.

(b) ELECTION OF CLASSIFIED OR UNCLASSIFIED FORM- Amounts set forth under subsection (a) may be set forth in unclassified form or classified form, at the election of the Director of Central Intelligence.

DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

SEC. 507. (a) ANNUAL REPORTS- (1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A):

(A) The annual evaluation of the performance and responsiveness of certain elements of the intelligence community required by section 105(d).

(B) The annual report on intelligence required by section 109.

(C) The annual report on intelligence community cooperation with Federal law enforcement agencies required by section 114(a)(2).

(D) The annual report on the protection of the identities of covert agents required by section 603.

(E) The annual report of the Inspectors General of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

(F) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

(G) The annual report on expenditures for postemployment assistance for terminated intelligence employees required by section 1611(e)(2) of title 10, United States Code.

(H) The annual update on foreign industrial espionage required by section 809(b) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 50 U.S.C. App. 2170b(b)).

(I) The annual report on coordination of counterintelligence matters with the Federal Bureau of Investigation required by section 811(c)(6) of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 402a(c)(6)).

(J) The annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets required by section 827 of the Intelligence Authorization Act for Fiscal Year 2003.

(K) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291-4(c)(2)).

(L) The annual report on exceptions to consumer disclosure requirements for national security investigations under section 604(b)(4)(E) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)(E)).

(M) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

(N) The annual report on hiring and retention of minority employees in the intelligence community required by section 114(c).

(2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):

(A) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 114(b).

(B) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(d).

(C) The annual report on covert leases required by section 114(e).

(D) The annual report on improvements of the financial statements of the intelligence community for auditing purposes required by section 114A.

(E) The annual report on activities of personnel of the Federal Bureau of Investigation outside the United States required by section 540C(c)(2) of title 28, United States Code.

(F) The annual report on intelligence activities of the People's Republic of China required by section 308(c) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105-107; 50 U.S.C. 402a note).

(G) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.

(b) SEMIANNUAL REPORTS- The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2):

(1) The periodic reports on intelligence provided to the United Nations required by section 112(b).

(2) The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)).

(3) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.

(4) The semiannual reports on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721(b) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293; 50 U.S.C. 2366(b)).

(5) The semiannual reports on the activities of the Diplomatic Telecommunications Service Program Office (DTS-PO) required by section 322(a)(6)(D)(ii) of the Intelligence Authorization Act for Fiscal Year 2001 (22 U.S.C. 7302(a)(6)(D)(ii)).

(6) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 624(h)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(2)).

(7) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)).

(8) The semiannual report on financial intelligence on terrorist assets required by section 118.

(c) SUBMITTAL DATES FOR REPORTS- (1)(A) Except as provided in subsection (d), each annual report listed in subsection (a)(1) shall be submitted not later than February 1.

(B) Except as provided in subsection (d), each annual report listed in subsection (a)(2) shall be submitted not later than December 1.

(2) Except as provided in subsection (d), each semiannual report listed in subsection (b) shall be submitted not later than February 1 and August 1.

(d) POSTPONEMENT OF SUBMITTAL- (1) Subject to paragraph (3), the date for the submittal of--

(A) an annual report listed in subsection (a)(1) may be postponed until March 1;

(B) an annual report listed in subsection (a)(2) may be postponed until January 1;
and

(C) a semiannual report listed in subsection (b) may be postponed until March 1 or September 1, as the case may be, if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.

TITLE VI - PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

SEC. 601. [50 U.S.C. 421] (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than ten years, or both.

(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than three years or both.

(d) A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

DEFENSES AND EXCEPTIONS

SEC. 602. [50 U.S.C. 422] (a) It is a defense to a prosecution under section 601 that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

(b)(1) Subject to paragraph (2), no person other than a person committing an offense under section 601 shall be subject to prosecution under such section by virtue of section 2 or 4 of title 1 United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

(c) It shall not be an offense under section 601 to transmit in formation described in such section directly to either congressional intelligence committee.

(d) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent.

REPORT

SEC. 603. [50 U.S.C. 423] (a) The President, after receiving in formation from the Director of Central Intelligence, shall submit to the congressional intelligence committees an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents.

(b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

EXTRATERRITORIAL JURISDICTION

SEC. 604. [50 U.S.C. 424] There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the united States or: an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

PROVIDING INFORMATION TO CONGRESS

SEC. 605. [50 U.S.C. 425] Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

DEFINITIONS

SEC. 606. [50 U.S.C. 426] For the purposes of this title:

(1) The term "classified information" means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) The term "authorized", when used with respect to access to classified information, means having authority, right or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) The term "disclose" means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) The term "covert agent" means -

(A) a present or retired officer or employee of an intelligence agency or a present or retired member of the Armed Forces assigned to duty with an intelligence agency -

(i) whose identity as such an officer, employee, or member is classified information, and

(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and -

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term "intelligence agency" means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

(6) The term "informant" means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(7) The terms "officer" and "employee" have the meanings given such terms by section 2104 and 2105, respectively, of title 5, United States Code.

(8) The term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term "pattern of activities" requires a series of acts with a common purpose or objective.

TITLE VII - PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE

SEC. 701. [50 U.S.C.431] (a) Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5, United States Code (Freedom of Information Act), which require publication or disclosure, or search or review in connection therewith.

(b) For the purposes of this title the term "operational files" means -

(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Personnel Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources; except that files which are the sole repository of disseminated intelligence are not operational files.

(c) Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning -

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of

title 5, United States Code (Freedom of Information Act), or section 552a of title 5, United States Code (Privacy Act of 1974);

(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act); or

(3) the specific subject matter of an investigation by the congressional intelligence committees, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

(d)(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that -

(1) in any case in which information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte in camera by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subsection (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that -

(1) in any case in which information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined *ex parte*, *in camera* by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES

SEC. 702. [50 U.S.C. 432] (a) Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 701 of this Act to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

(b) The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(c) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.

TITLE VIII - ACCESS TO CLASSIFIED INFORMATION

PROCEDURES

SEC. 801. [50 U.S.C 435] (a) Not later than 180 days after the date of enactment of this title, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum

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(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, and travel records, and computers used in the performance of

Government duties, as determined by the President, in accordance with section 802 of this title, during the period of access to classified information and for a period of three years thereafter;

(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this title are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

(b)(1) subsection (a) shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed by subsection (a) cannot be invoked in a manner that is consistent with the national security.

(2) Upon the exercise of such responsibility, the agency head shall submit a report to the congressional intelligence committees.

REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

SEC. 802 [50 U.S.C. 436] (a)(1) Any authorized investigative agency may, request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where -

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained,

and for a period of not more than three years thereafter, permitting access to financial record, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that -

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

(C) shall identify specifically or by category the records or information to be reviewed; and

(D) shall inform the recipient of the request of the prohibition described in subsection (b).

(b) Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

(c)(1) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(d) Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

(e) An agency receiving records or information pursuant to request under this section may disseminate the records or information obtained pursuant to such request outside the agency only

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes;
or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

(f) Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

EXCEPTIONS

Sec. 803. [50 U.S.C. 437] Except as otherwise specifically provided, the provisions of this title shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

DEFINITIONS

Sec. 804. [50 U.S.C. 438] For purposes of this title -

(1) the term "authorized investigative agency" means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons

who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term "classified information" means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954, to require protection against unauthorized disclosure and that is so designated;

(3) the term "consumer reporting agency" has the meaning given such term in section 603 of the Consumer Credit Protection Act (15 U.S.C. 1681a);

(4) the term "employee" includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms "financial agency" and "financial institution" have the meanings given to such terms in section 5312(a) of title 31, United States Code, and the term "holding company" has the meaning given to such term in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401);

(6) the terms "foreign power" and "agent of a foreign power" have the same meanings as set forth in sections 101 (a) and (b) respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

(7) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States; and

(8) the term "computer" means any electronic, magnetic, optical, electromechanical, or other high speed data processing device performing logical arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.

TITLE IX - APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

STAY OF SANCTIONS

SEC. 901. [50 U.S.C. 441] Notwithstanding any provision of law identified in section 904, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country,

organization, or person when the President determines and reports to Congress in accordance with section 903 that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 902.

EXTENSION OF STAY

SEC. 902. [50 U.S.C. 441a] Whenever the President determines and reports to Congress in accordance with section 903 that a stay of sanctions or related actions pursuant to section 901 has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 901 for successive periods of not more than 120 days each.

REPORTS

SEC. 903. [50 U.S.C. 441b] Reports to Congress pursuant to sections 901 and 902 shall be submitted promptly upon determinations under this title. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the congressional intelligence committees. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

LAWS SUBJECT TO STAY

SEC. 904. [50 U.S.C. 441c] The President may use the authority of sections 901 and 902 to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182); the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103-236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102-484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103-87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103-306); and comparable provisions.

APPLICATION

SEC. 905. [50 U.S.C. 441d] This title shall cease to be effective on January 6, 2000.

TITLE X--EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY

SEC. 1001. (a) PROGRAM AUTHORIZED- The Director of Central Intelligence may carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

(b) ADMINISTRATION- If the Director carries out the program under subsection (a), the Director shall administer the program through the Assistant Director of Central Intelligence for Administration.

(c) IDENTIFICATION OF FIELDS OF STUDY- If the Director carries out the program under subsection (a), the Director shall identify fields of study under subsection (a) in consultation with the other heads of the elements of the intelligence community.

(d) ELIGIBILITY FOR PARTICIPATION- An individual eligible to participate in the program is any individual who--

(1) either--

(A) is an employee of the intelligence community; or

(B) meets criteria for eligibility for employment in the intelligence community that are established by the Director;

(2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a); and

(3) is eligible for a security clearance at the level of Secret or above.

(e) REGULATIONS- If the Director carries out the program under subsection (a), the Director shall prescribe regulations for purposes of the administration of this section.

TITLE XI - ADDITIONAL MISCELLANEOUS PROVISIONS

APPLICABILITY TO UNITED STATES INTELLIGENCE ACTIVITIES OF FEDERAL LAWS IMPLEMENTING INTERNATIONAL TREATIES AND AGREEMENTS

SEC. 1101. IN GENERAL - No Federal law enacted on or after the date of the enactment of Intelligence Authorization Act for Fiscal Year 2001 that implements a treaty or other international agreement shall be construed as making unlawful an otherwise lawful and authorized intelligence activity of the United States Government or its employees, or any other person to the extent such other person is carrying out such activity on behalf of, and at the direction of, the United States, unless such Federal law specifically addresses such intelligence activity.

(b) AUTHORIZED INTELLIGENCE ACTIVITIES - An intelligence activity shall be treated as authorized for purposes of subsection (a) if the intelligence activity is authorized by an appropriate official of the United States Government, acting within the scope of the official duties of that official and in compliance with Federal law and any applicable Presidential directive.

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History of the

National Security Council

1947-1997

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The National Security Council was created by Public Law 80(253, approved July 26, 1947, as part of a general reorganization of the U.S. national security apparatus. Proponents of the reform realized that no institutional means for the coordination of foreign and defense policy existed, and that the informal management techniques employed by President Roosevelt during the war and President Truman after the war were not suitable for the long haul. The State-War-Navy Coordinating Committee (SWNCC) had been established in 1944 at

the Assistant Secretary-level, and by 1945 the Secretaries of State, War, and Navy began holding weekly meetings. President Roosevelt had tended to trust White House aides like Harry Hopkins and Admiral William D. Leahy to carry on necessary day-to-day coordination. President Truman for a time relied upon Special White House Counsel Clark Clifford to provide the Hopkins(Leahy type of personal coordination. Clifford, who was dismayed by the disorder among agencies taking major post-war policy-making decisions, was a key figure in establishing the National Security Council to give institutional stability to national security policy-making.

The National Security Act of 1947 created the National Security Council under the chairmanship of the President, with only the following seven officials as permanent members: the President, the Secretaries of State, Defense, Army, Navy, Air Force, and the Chairman of the National Security Resources Board. The President could designate "from time to time" the Secretaries of other executive departments and the Chairmen of the Munitions Board and the Research and Development Board to attend meetings. While the new Central Intelligence Agency was to report to the NSC, the Director of Central Intelligence was not a member, although he attended meetings as an observer and resident adviser.

The function of the NSC as outlined in the 1947 act was to advise the President on integration of domestic, foreign, and military policies relating to national security and to facilitate interagency cooperation. At the President's direction, the NSC could also assess and appraise risks to U.S. national security, consider policies, and then report or make recommendations to the President. The act created a small permanent staff headed by a civilian Executive Secretary appointed by the President. In neither the National Security Act of 1947 nor subsequent amendments was there provision for the position of National Security Adviser. Initially, the permanent NSC staff had no substantive role in the formulation, let alone implementation, of national security policies.

The NSC did, however, serve other purposes beyond its stated goal of advising on policy formulation. For Forrestal and the Navy, who were opposed to a strongly-unified Department of Defense, it provided top-level coordination of the three armed services without integration or unification. For Defense officials, it ensured a continuing military voice in formulation of related foreign and domestic policies during peacetime. For those, especially in Congress, who doubted Truman had adequate experience in foreign affairs or even doubted his abilities in general, the NSC offered the hope of evolving into a collegial policy-making body to reinforce the President.

Truman was clearly sensitive to this implied criticism and jealous of his prerogatives as Chief Executive. He did not like the idea of Congress legislating who could advise him on national security. Truman, therefore, kept the NSC at arm's length during its first 3 years. He attended the first session of the NSC on

September 26, 1947, and then stayed away from all but 10 of the next 55 meetings. Truman continued to rely on a succession of personal White House advisers (George M. Elsey, Rear Admiral Robert Dennison, and W. Averell Harriman) to coordinate for him major foreign policy matters.

Initially, Truman named the Secretary of State as the ranking member of the Council in his absence and expected the Department of State to play the major role in formulating policy recommendations. This decision disappointed Defense officials who hoped that the Secretary of Defense would be allowed to preside in the President's absence and had offered to locate the NSC staff in the Pentagon. Clifford managed to resist Secretary of Defense Forrestal's efforts to gain control of the NSC. Procedures established during the Truman administration set the basic bureaucratic pattern which lasted through the Eisenhower administration: draft NSC papers written primarily by State's Policy Planning Staff, discussion at the NSC meeting, approval by the President resulting in an NSC Action, and dissemination to relevant parts of the bureaucracy. During its initial years, the NSC suffered from haphazard staffing and irregular meetings and was sometimes bypassed entirely. The executive secretaries of the Council had no real authority or influence beyond managing the staff process.

In 1949, the NSC was reorganized. Truman directed the Secretary of the Treasury to attend all meetings and Congress amended the National Security Act of 1947 to eliminate the three service secretaries from Council membership and add the Vice President (who assumed second rank from the Secretary of State) and the Joint Chiefs of Staff who became permanent advisers to the Council. NSC standing committees were created to deal with sensitive issues such as internal security. The NSC staff consisted of three groups: the Executive Secretary and his staff who managed the paper flow; a staff, made up of personnel on detail, whose role was to develop studies and policy recommendations (headed by the Coordinator from the Department of State); and the Consultants to the Executive Secretary who acted as chief policy and operational planners for each department or agency represented on the NSC.

Even Truman's overhaul of the machinery in 1949 did not create a National Security Council that fulfilled the role originally envisioned. Truman was partly to blame. He insisted on going outside NSC channels for national security advice, relying directly on his Secretaries of State and Defense, and increasingly on the Bureau of the Budget. Attendance at NSC meetings gradually increased to a point where the Council became too large for free discussion and degenerated into a bureaucratic battleground of departmental rivalries. NSC lines of authority, never clear, became increasingly blurred. By not attending most NSC meetings, Truman ensured that Council members would seek him out to press their own viewpoints privately.

In 1949, events reinforced the need for better coordination of national security policy: NATO was formed, military assistance for Europe was begun, the Soviet

Union detonated an atomic bomb, and the Communists gained control in China. The Department of State seized the opportunity to review U.S. strategic policy and military programs, overcoming opposition from Secretary of Defense Louis Johnson and his allies in the Bureau of the Budget. Initially sidestepping formal NSC channels, State won approval of an ad hoc interdepartmental committee under its Policy Planning head, Paul Nitze. Their report, NSC 68, was submitted directly to Truman in February 1950, who sent it to the NSC for a cost analysis. An NSC committee authorized to consider costs and broader implications of NSC 68 began its work, but before it could be completed the Korean war broke out.

The war in Korea dramatically changed the functioning of the NSC under Truman. Thereafter the Council met every Thursday and the President attended all but 7 of its 71 remaining meetings. Truman limited attendance to statutory members plus the Secretary of the Treasury, the Chairman of the JCS, the Director of Central Intelligence, two special advisers (Averell Harriman and Sidney Souers), and the NSC Executive Secretary.

The Secretariat was retained, but the Staff and the Consultants were eliminated in favor of a Senior Staff--Assistant Secretary level or higher (supported by Staff Assistants). Truman reiterated that the NSC was to be the channel for all important national security recommendations. During the first year of the Korean war, the NSC came as close as it ever did under Truman to fulfilling that role. Nonetheless, Truman still looked outside the formal NSC mechanism for advice and recommendations, relying on the NSC as much for staffing and coordination of interdepartmental views as for primary recommendations.

Truman made additional structural changes in the NSC in late 1950 and in 1951. He directed the head of the newly-created Office of Defense Mobilization to attend NSC meetings and then made him a member of the Senior Staff. With the Mutual Security Act of 1951, the newly-created Director for Mutual Security (Harriman) became a statutory member with the right to appoint a Senior Staff member. The Bureau of the Budget sent a representative to some Senior Staff meetings. In 1951, the Psychological Strategy Board (PSB), made up of the deputies at State and Defense and the Director of Central Intelligence, was created to coordinate the response to Soviet unconventional Cold War tactics. The PSB worked closely with the NSC in managing America's covert psychological counterattack. In his retirement President Truman denied any responsibility for "cloak and dagger operations" but it was during his Presidency that covert intelligence operations in support of foreign policy objectives was undertaken on an ever broadening scale. The NSC's first action (NSC 1/1) authorized covert action in the Italian elections. The formal institutionalization of covert actions was established as NSC 4 in December 1947, and NSC 10/2 of June 1948.

During Truman's last year, the Council and the Senior Staff met less frequently and NSC activity abated. Much interdepartmental planning on the NSC books was never completed by the end of the Truman administration. During this period, the

NSC reflected Truman's sense of frustration as a lame-duck President caught in a stalemated war.

Eisenhower Administration, 1953-1961

Under President Eisenhower, the National Security Council system evolved into the principal arm of the President in formulating and executing policy on military, international, and internal security affairs. Where Truman was uncomfortable with the NSC system and only made regular use of it under the pressure of the Korean war, Eisenhower embraced the NSC concept and created a structured system of integrated policy review. With his military background, Eisenhower had a penchant for careful staff work, and believed that effective planning involved a creative process of discussion and debate among advisers compelled to work toward agreed recommendations.

The genesis of the new NSC system was a report prepared for the President in March 1953 by Robert Cutler, who became the President's Special Assistant for National Security Affairs. Cutler proposed a systematic flow of recommendation, decision, and implementation that he later described as the "policy hill" process. At the bottom of the hill, concerned agencies such as State and Defense produced draft policy recommendations on specific topics and worked for consensus at the agency level. These draft NSC papers went up the hill through the Planning Board, created to review and refine the recommendations before passing them on for full NSC consideration. The NSC Planning Board met on Tuesday and Friday afternoons and was composed of officials at the Assistant Secretary level from the agencies with permanent or standing representation on the Council, as well as advisers from the JCS and CIA. Hundreds of hours were spent by the Board reviewing and reconstructing proposed papers for the NSC. Cutler resigned in 1958 in exhaustion. The top of the foreign policy-making hill was the NSC itself, chaired by the President, which met regularly on Thursday mornings.

The Council consisted of the five statutory members: the President, Vice President, Secretaries of State and Defense, and Director of the Office of Defense Mobilization. Depending on the subject under discussion, as many as a score of other senior Cabinet members and advisers, including the Secretary of the Treasury, the Chairman of the JCS, and the Director of Central Intelligence, attended and participated. The agenda included regular briefings by the Director of Central Intelligence on worldwide developments affecting U.S. security, and consideration of the policy papers advanced by the Planning Board. The upshot of the discussions were recommendations to the President in the form of NSC Actions. The President, who participated in the discussion, normally endorsed the NSC Action, and the decision went down the hill for implementation to the Operations Coordinating Board.

President Eisenhower created the Operations Coordinating Board (OCB) to follow up on all NSC decisions. The OCB met regularly on Wednesday

afternoons at the Department of State, and was composed of the Under Secretary of State for Political Affairs, Deputy Secretary of Defense, the Directors of CIA, USIA, and ICA, and the Special Assistants to the President for National Security Affairs and Security Operations Coordination. The OCB was the coordinating and implementing arm of the NSC for all aspects of the implementation of national security policy. NSC action papers were assigned to a team from the OCB for follow-up. More than 40 interagency working groups were established with experts for various countries and subjects. This 24-person staff of the OCB supported these working groups in which officials from various agencies met each other for the first time.

The President's Special Assistant for National Security Affairs, a post held under Eisenhower by Cutler, Dillon Anderson, William H. Jackson, and Gordon Gray, oversaw the flow of recommendations and decisions up and down the policy hill, and functioned in Council meetings to brief the Council and summarize the sense of discussion. The Special Assistant was an essential facilitator of the decision-making system, but, unlike the National Security Adviser created under Kennedy, had no substantive role in the process. The NSC staff managed by the Special Assistant grew during the Eisenhower years, but again had no independent role in the policy process.

President Eisenhower had great confidence in the efficacy of covert operations as a viable supplement or alternative to normal foreign policy activities. The seeming clear success of the operations to overthrow Iranian populist leader Mossadegh in 1953 and the left-leaning President Arbenz in Guatemala in 1954 was not without their crisis moments in the White House. In 1954 NSC 5412 provided for the establishment of a panel of designated representatives of the President and the Secretaries of State and Defense to meet regularly to review and recommend covert operations. Gordon Gray assumed the chairmanship of the "5412 Committee" as it was called, and all succeeding National Security Advisers have chaired similar successor committees, variously named "303", "40", "Special Coordinating Committee," which, in later Presidential administrations, were charged with the review of CIA covert operations.

President Eisenhower also created the position of staff secretary with the responsibility to screen all foreign policy and military documents coming to the President. While Colonel Andrew Goodpaster held this position, he tended to eclipse the Special Assistant for National Security.

The strength of the NSC system under Eisenhower was that it provided for regular, fully-staffed, interagency review of major foreign and national security issues, culminating in discussion and decision at the highest level of government. The resulting Presidentially-approved NSC papers provided policy guidance at every level of implementation. Eisenhower felt that the regular policy discussions kept his principal advisers fully informed, in step with one another, and prepared to react knowledgeably in the event of crisis. His commitment to the system was

such that he chaired every Council meeting he could attend (329 of a total of 366). The NSC meetings, including prior briefings and subsequent review of NSC Actions, constituted the largest single item on his weekly agenda.

Secretary of State Dulles, on the other hand, had reservations about the NSC system. He was the strongest personality in the Eisenhower Cabinet and jealously guarded his role as principal adviser to the President on foreign policy. He had constant, direct access to the President and did not feel that some of the most sensitive issues should be discussed in groups as large as were involved in most NSC meetings. He drew a sharp line between the NSC policy review process and the day-to-day operations of foreign policy, which he maintained were the province of the Department of State. Dulles and his deputies were not comfortable with the scope the NSC review system gave to Secretary of the Treasury George Humphrey, another strong figure in the Cabinet, to intrude budgetary limitations into policy considerations. And Dulles successfully resisted a proposal to substitute the Vice President for the Under Secretary of State as chairman of the OCB, arguing that such a change would impinge on his role as principal adviser to the President on foreign policy.

Critics of the Eisenhower NSC system have argued that it was inflexible, overstaffed, unable to anticipate and react to immediate crises, and weighed down by committees reporting in great detail on long checklists of minor policy concerns. The most thorough critique of the system emerged from the hearings conducted in 1960(1961 by the Senate Subcommittee on National Policy Machinery, known as the Jackson Subcommittee for its chairman, Senator Henry Jackson. Cutler and NSC Executive Secretary James Lay testified in support of the effectiveness of the system, but their testimony was offset by that of former Truman administration officials such as George Kennan, Paul Nitze, and Robert Lovett. They argued that foreign policy was being made by a passive President influenced by a National Security Council rendered virtually useless by ponderous, bureaucratic machinery. Basically, they argued, the NSC was a huge committee, and suffered from all the weaknesses of committees. Composed of representatives of many agencies, its members were not free to adopt the broad, statesmanlike attitude desired by the President, but, rather, were ambassadors of their own departments, clinging to departmental rather than national views. To make matters worse, critics added, the NSC system by its very nature was restricted to continuing and developing already established policies and was incapable of originating new ideas or major innovations. The critics suggested replacement of the formal, "over-institutionalized" NSC structure with a smaller, less formal NSC which would offer the President a clear choice of alternatives on a limited number of major problems.

Eisenhower was certainly not a passive President, dominated on foreign policy and national security issues by his Secretary of State. In fact, Eisenhower was actively in command of his administration, and the NSC system met his instincts and requirements. There is substance in the criticism that the Eisenhower NSC

became to some extent the prisoner of a rigidly bureaucratic process, but the criticism misses the point that Eisenhower and Dulles did not attempt to manage fast-breaking crises or day-to-day foreign policy through the NSC apparatus. An examination of several of the major foreign policy problems that confronted the Eisenhower administration reveals that the NSC system was used to manage some and was virtually bypassed in others. When the question involved a policy debate between departments with strongly-held, contending positions, as it did in the case of the debate between the Departments of State and Defense in 1956(1957 over whether to introduce a more modern generation of weapons into Korea, the NSC process focused debate and produced an agreed decision after discussion of three draft policy papers.

Crisis situations, however, such as the Suez crisis of 1956, the off-shore island crises of 1955 and 1958, and the Lebanon crisis of 1958, were typically managed through telephone conversations between Eisenhower, Dulles, and other principal advisers, and through small meetings with the President in the White House, normally involving Dulles and other concerned advisers. Eisenhower sometimes used trusted NSC staffers to serve as an intermediary to gain information outside the chain of command as he did with Colonel Goodpaster during the Quemoy crisis in 1955. There was great similarity between this process of crisis management and that adopted by subsequent Presidents, such as Kennedy, Johnson, and Nixon, except for the fact that the ad hoc meetings in the Eisenhower White House did not involve a National Security Adviser as a substantive participant. And in the event that aspects of crisis management depended on contact with the critical man-on-the-spot, as it did in 1958 when Deputy Under Secretary of State Robert Murphy was dispatched to Lebanon to attempt to defuse the crisis, his instructions came from the Department of State and he reported to the Secretary of State rather than directly to the White House, as became the practice during the height of the Vietnam conflict.

When Eisenhower briefed President-elect Kennedy on the NSC system, and when Gray briefed his successor McGeorge Bundy, they emphasized the importance of the NSC machinery in the management of foreign policy and national security affairs. They might have been more persuasive had they pointed to the fact that the NSC system was essentially limited to policy review and was not used to manage crises or day-to-day foreign policy.

Kennedy Administration, 1961-1963

President Kennedy, who was strongly influenced by the report of the Jackson Subcommittee and its severe critique of the Eisenhower NSC system, moved quickly at the beginning of his administration to deconstruct the NSC process and simplify the foreign policy-making process and make it more intimate. In a very short period after taking office, the new President moved to reduce the NSC staff from 74 to 49, limit the substantive officers to 12, and hold NSC meetings much less frequently while sharply curtailing the number of officers attending. The

Operation Coordination Board was abolished, and the NSC was, at the President's insistence, pulled back from monitoring the implementation of policies. The coordination of foreign policy decisions was ostensibly left to the State Department (and other agencies as necessary).

McGeorge Bundy's appointment as the President's National Security Adviser inaugurated this position as it has essentially continued down to the present. The definition of Bundy's responsibilities and authority unfolded and grew during the Kennedy presidency. Bundy's considerable intellectual and bureaucratic abilities as well as close personal relationship with the new President contributed much to evolution of the National Security Adviser position and the new role of the NSC. In a letter to Senator Jackson in September 1961 Bundy sought to define the early relationship sought with the State Department.

". . . the President has made it very clear that he does not want a large, separate organization between him and his Secretary of State. Neither does he wish any question to arise as to the clear authority and responsibility of the Secretary of State, not only in his own Department, and not only in such large-scale related areas as foreign aid and information policy, but also as the agent of coordination in all our major policies toward other nations."

The Department of State's apparent failure effectively to coordinate the administration's response to the Bay of Pigs crisis in early 1961 led to a series of measures aimed at providing the President with better independent advice from the government. It also sparked the NSC process to reenter the arena of monitoring the implementation of policy. The most important step in this direction was the establishment of the Situation Room in the White House in 1962. The Sit Room, located next to Bundy's office in the basement of the West Wing of the White House, was directly linked to all the communication channels of the State Department and the Department of Defense, as well as to some of the channels of the CIA. The Sit Room allowed the President and his foreign affairs advisers to keep abreast of all the cable traffic from overseas posts. More than anything else, the Sit Room allowed Bundy and his NSC staff to expand their involvement in the international activities of foreign affairs community and become, in essence, "a little State Department."

As National Security Adviser, Bundy divided his work with his Deputy, Walt Rostow (and later Carl Kaysen). While Bundy dealt with the immediate day-to-day crises and the range of European affairs, Rostow focused upon long-term planning with a particular concentration on Latin American affairs. Kaysen focused upon foreign trade and economic affairs matters that became increasingly important in the latter part of the Kennedy Presidency.

In addition to Bundy and the NSC staff, President Kennedy reached out still further for foreign affairs advice. Early in 1961 the President appointed General Maxwell Taylor to serve as his military representative and provide liaison with

the government agencies and defense and intelligence establishments on military-political issues confronting the administration. Taylor in effect took up the role filled by Admiral Leahy in the Roosevelt White House. General Taylor advised the President on military matters, intelligence, and Cold War planning and paid special attention to the continuing Berlin crisis and growing difficulties in Indochina. The Taylor(Rostow mission to Indochina at the end of 1961 and the resulting report led to military decisions on aid to South Vietnam and the entry of the United States into the Vietnamese quagmire. Taylor had a very personal connection with the President and was not replaced in 1962 when he left. But in 1962 Kennedy appointed former State Department Under Secretary Chester Bowles to serve as his Special Adviser on Foreign Affairs. Bowles had not survived conflicts with Secretary of State Rusk and his appointment to the White House was partly compensatory. His brief was seemingly intended to be the development of policy toward the Third World, but after a year he left Washington to become Ambassador to India.

The NSC continued to meet during the Kennedy Presidency, but far less frequently than had been the case under his predecessor. It met 15 times during the first 6 months of 1961, then averaged one meeting a month for the rest of his Presidency, reaching a total of 49 meetings. "Much that used to flow routinely to the weekly meetings of the Council is now settled in other ways, Bundy reported in September 1961. Some of the NSC activities were taken up by a smaller, more select body called the Standing Group. This small NSC coordinating panel was chaired by the Under Secretary of State for Political Affairs and included the Deputy Secretary of Defense, the Director of Central Intelligence, and Bundy. It considered a wide range of foreign affairs issues at 14 meetings the last of which was in August 1962. The Standing Group resumed in April 1963 with Bundy as its chairman and with the added membership of the Attorney General, the Chairman of the JCS, the Under Secretary of the Treasury, the Director of USIA, and Administrator of AID. It also met 14 times during the remainder of the Kennedy Presidency.

The Kennedy administration abandoned the Eisenhower-era efforts at long-range planning in favor of a heavy reliance upon ad hoc inter-agency working groups functioning in a "crisis management" atmosphere. The leadership in these special groups did not automatically fall to the State Department. Trusted officials from other agencies or outside the foreign affairs community often took the lead. There were special groups on counter-insurgency (chaired by General Taylor), on Vietnam, and the Berlin crisis, the latter presided over by former Secretary of State Dean Acheson. The Executive Committee of the National Security Council (ExCom) was established in the autumn of 1962 to manage the emerging Cuban Missile Crisis. A much smaller group than the NSC, it consisted of the President as chairman, the Vice President, the Secretaries of State, Defense, and the Treasury, the Attorney General (the President's brother), the Director of Central Intelligence, and Chairman of the JCS as well as National Security Adviser Bundy. After the missile crisis was successful weathered, the ExCom continued to

meet with Cuba as its primary subject but with discussions of other matters during its 42 meetings between October 1962 and March 1963.

U.S. covert actions and paramilitary activity during the Kennedy administration were administered generally outside the NSC system. Following the Bay of Pigs fiasco in early 1961, the President reconstituted the 5412 Committee that monitored covert actions as the Special Group. Chaired by National Security Adviser Bundy, the new body included the Director of Central Intelligence, the Chairman of the Joint Chiefs of Staff, and Under Secretaries from the State and Defense Departments. This body reviewed and endorsed a number of covert action projects in the first 2 years of the Kennedy Presidency. President Kennedy also added to the responsibilities of the President's Foreign Intelligence Advisory Board (PFIAB), originally created by President Eisenhower in 1956. Kennedy met with the Board 12 times and conferred frequently with individual members. The Board reviewed a wide range of intelligence matters and made some 120 recommendations to the President.

In effect, Bundy had the first and last words on policy. He worked in close proximity to the President who valued highly his competence and opinions; he served on most major ad hoc committees and the Executive Committee, and he attended the occasional formal meetings of the National Security Council. It is possible to overemphasize Bundy's substantive skewing of Presidential policy formulation. Most observers credited him with being scrupulously fair in presenting opinions of the agencies to the President, even when they conflicted with his own. He offered his views to Kennedy only when specifically asked. Bundy's influence was oblique rather than direct. Essentially, he served an administrative function and did not seek to advance a personal overview of American security and foreign policy. The most significant aspect of Bundy's tenure as Kennedy's Special Assistant for National Security Affairs was that he headed an aggressive Presidential staff that believed its job was to protect the President's interests, provide him with independent advice, and lead a recalcitrant bureaucracy toward his policies. In addition, Bundy was an effective channel to the President for his activist staff.

Johnson Administration, 1963-1969

The abrupt transition of power to the Johnson administration brought no dramatic change in the formal role of the National Security Council. Like Kennedy, Johnson much preferred small, informal advisory meetings to large Council meetings supported by an elaborately organized staff. According to one of his aides, Johnson felt the NSC was "not a live institution, not suited to precise debate for the sake of decision." Moreover, Johnson thought NSC meetings were prone to leaks--they were "like sieves," he once remarked--and he inherited advisers who shared his views. Secretary of State Dean Rusk later observed that during the Kennedy Presidency neither he nor Secretary of Defense Robert McNamara liked

to "get into much discussion" in the NSC with "so many people sitting around the room" and the possibility of leaks so great.

Despite his misgivings about the Council, Johnson started out convening it fairly regularly, about every 2 weeks on average during his first 11 months in office. The sessions dealt with a broad range of issues but were relatively brief in duration and, after May 1964, consisted largely of briefings. With the approach of the Presidential election in November, Johnson suspended NSC meetings, but then in early 1965 he shifted gears. From February 1965 through mid-1966 he convened the NSC almost exclusively to discuss Vietnam, doing so irregularly and, following a flurry of meetings in February 1965, infrequently. Several participants later charged that Johnson used the NSC during 1965 not to consult on Vietnam as he committed major U.S. ground forces but to "rubber stamp" decisions made beforehand. The other major foreign policy crisis of the period, the intervention in the Dominican Republic during April and May 1965, was not brought before the Council at all.

As the Council's formal advisory role diminished, so too did its institutional support. Johnson treated the NSC staff as a personal staff, and dropped meetings of the NSC Standing Group, which convened intermittently under Kennedy to deal with planning and operations problems. Official records of Council actions were discontinued, and National Security Action Memorandums, which Kennedy had instituted to inform government agencies of Presidential decisions requiring follow-up action, were issued with decreasing frequency. Whereas Kennedy had issued 272 NSAMs in less than three years, Johnson issued 46 in 1964, 35 during 1965 and 1966, and a mere 14 during his final 2 years in office.

Disinclined to use the Council meetings for advice, Johnson, like Kennedy, relied heavily on his National Security Advisers: McGeorge Bundy, who remained in office through February 1966, and Bundy's successor, Walt Rostow, who served to the end of the administration. Indeed, scholars looking at the evolution of the NSC from its inception to the 1970s contend that the National Security Adviser and his White House centered staff increasingly assumed a more prominent role than the official National Security Council and that Johnson, like Kennedy before him, played a key role in this development. Focusing on Johnson's Presidency alone, however, some of his advisers, including Secretary of State Rusk and Walt Rostow, insisted that the Council's advisory role was actually performed principally by another institution, the Tuesday Lunch Group, and that those lunch meetings were in effect regular NSC meetings.

The small, informal, Tuesday luncheon meetings were much more to Johnson's liking than formal NSC meetings and quickly gained a prominent place in the decision-making process. Embracing the Secretaries of State and Defense and the National Security Adviser, the Tuesday Lunch Group met 27 times between February and September 1964. In all Johnson convened some 160 Tuesday luncheons during his Presidency, and the group was gradually expanded to

include his press secretary, the Director of Central Intelligence, and the Chairman of the Joint Chiefs of Staff. The participants uniformly praised the "strong collegial sense" at the meetings and the opportunity for "extraordinary candor," but subordinates often complained that the secrecy and informality that encouraged candor also made it hard for them to prepare their superiors properly for the meetings and implement the decisions that were reached.

Upon succeeding Bundy as National Security Adviser in 1966, Rostow came to grips with the issue of how to make effective use of the formal Council, which by then was virtually moribund. He advised Johnson neither to pretend to use the Council meetings for making major decisions nor to focus on day-to-day operations. Instead he proposed regular, "anticipatory-type" sessions devoted, as Johnson explained at the first of the new series, to "discussion of complex problems requiring careful exploration before they were to come to him for decision." Clearly intended to complement rather than challenge the primary advisory roles of the Tuesday luncheons and the National Security Adviser and his staff, NSC meetings for the balance of the administration considered a broad range of anticipated rather than pressing issues and gave little attention to Vietnam. As one NSC staff member put it, Council members now convened for "reflective and educational discussions, rather than decision-making meetings."

When not relying for advice and support on the Tuesday Lunch Group and the National Security Adviser and his small staff, Johnson turned to a variety of ad hoc groups and trusted friends inside and outside the government. Following the outbreak of the Six Day War, for example, he established an NSC Special Committee, modeled on the NSC Executive Committee that met during the Cuban Missile Crisis, to coordinate U.S. policy in the Middle East for several weeks. But none of these arrangements substituted fully for the functions that the NSC's Planning Board and the Operations Coordinating Board provided under Eisenhower.

In March 1966 the Johnson White House sought to remedy this situation through issuance of NSAM 341, the brainchild of General Maxwell Taylor. NSAM 341 assigned the Secretary of State official responsibility for the overall direction, coordination, and supervision of interdepartmental activities overseas and created a mechanism to carry out the responsibility consisting of the Senior Interdepartmental Group (SIG), chaired by the Under Secretary of State, and several Interdepartmental Regional Groups (IRGs) beneath it, each chaired by an Assistant Secretary of State. But following a fast-paced start, the SIG entered a period of quiescence that saw it meet only three times from late July 1966 to mid-July 1967, reflecting in part Under Secretary of State Nicholas Katzenbach's initial hesitancy to exploit its possibilities upon taking office in October 1966. The SIG gained new vitality in mid-1967, however, and together with the more active IRGs played a complementary and supporting role to the Secretary of State and the NSC, especially in easing the burdens of the national security adviser and his staff with respect to interagency coordination and follow-up.

The innovations of a Presidential administration often do not survive its close, reflecting as they do the distinctive views and management style of the President and his immediate advisers. The close of the Johnson administration brought an end to several of the adaptations it had made to manage foreign policy: Tuesday luncheons, anticipatory-type NSC meetings, and the SIG/IRG structure.

Nixon Administration, 1969-1974

President Nixon and his National Security Adviser, Henry Kissinger, dominated the making of U.S. foreign policy during the Nixon Presidency. As Nixon recalled in his memoirs: "From the outset of my administration, . . . I planned to direct foreign policy from the White House. Therefore I regarded my choice of a National Security Adviser as crucial." Henry Kissinger worked through a National Security Council apparatus he revised and fashioned to serve his needs and objectives and those of the President. The close relationship between the President and the National Security Adviser was the basis for their ability to carry out American foreign affairs leadership around the world. The National Security Council system was the mechanism for the period of unprecedented American activism in foreign policy and the exercise of Kissinger's growing power. Kissinger wrote later that "in the final analysis the influence of a Presidential Assistant derives almost exclusively from the confidence of the President, not from administrative arrangements." The two men developed a conceptual framework that would guide foreign policy decisions. Kissinger's intellectual ability, his ambition, and his frequent discussions with Nixon were all factors in increasing within the government both his own power and the unchallenged authority of the NSC system he personally directed.

The Kissinger NSC system sought to combine features of the Johnson and Eisenhower systems. The Senior Interdepartment Group (SIG) of the Johnson White House was replaced by an NSC Review Group (somewhat similar to the Eisenhower-era NSC Planning Group) together with an NSC Under Secretary's Committee. The Kissinger NSC relied upon interdepartmental working groups (IGs) to prepare for NSC directives. Critics observed that 10 IG meetings prepared the way for each SIG-level meeting, and 5 SIG meetings were needed to prepare for each NSC meeting.

White House direction of foreign policy meant the eclipse of the Department of State and Secretary William Rogers. Nixon did not trust the Department bureaucracy. According to Kissinger, Nixon picked Rogers, who was inexperienced in foreign affairs, to indicate that the President would dominate the relationship between the NSC and the Department of State. Throughout Nixon's first term, only Kissinger participated in the President's important discussions with foreign state visitors. Nixon excluded Rogers from his first meeting with Soviet Ambassador Anatoly Dobrynin in February 1969. The NSC also took control of the process of clearing key policy cables to overseas posts. Kissinger

and Rogers became rivals and developed formal contacts in place of substantive discussions.

The NSC (Department of State power relationship) was reflected in institutional arrangements. During the transition period before Nixon assumed power, Kissinger recommended that the NSC be buttressed by a structure of subcommittees to draft analyses of policy that would present clear decision options to the President. The National Security Adviser was to be chairman of a Review Group to screen interagency papers before their presentation to the full NSC chaired by the President. Nixon insisted on the abolition of the SIG chaired by the Department of State. These recommendations were incorporated in National Security Decision Memorandum (NSDM) 2, issued shortly after Nixon's inauguration on January 20, 1969. NSDM 2 was rightly perceived as a victory for Kissinger and helped to establish his foreign policy authority at the outset of the administration.

Kissinger moved quickly to establish the policy dominance of the NSC. He expanded its staff from 12 to 34; not only was it the cadre for his centralized policy-making, but it was also his antennae throughout the bureaucratic structure. In the President's name, Kissinger set the NSC agendas and issued the numerous National Security Study Memoranda (NSSM) that set forth the precise needs for interagency policy papers. An NSC Under Secretaries Committee, chaired by the Deputy Secretary of State, gradually withered away. By the time the increasingly complicated committee structure was settled, Kissinger chaired six NSC-related committees: the Senior Review Group (non-crisis, non-arms control matters), the Washington Special Actions Group (serious crises), the Verification Panel (arms control negotiations), the 40 Committee (clandestine operations), the Intelligence Committee (policy for the intelligence community), and the Defense Program Review Committee (relation of the defense budget to foreign policy aims).

Nixon also increasingly bypassed the Department of State to supervise personally sensitive negotiations in order to avoid what he and President Nixon agreed were likely bureaucratic disputes and inertia. The President made clear that he wanted the National Security Adviser to conduct important matters directly out of his office. Nearly every foreign ambassador called upon Kissinger at least once. With Soviet Ambassador Dobrynin, Kissinger maintained a special relationship that completely bypassed the Department of State and Secretary Rogers. Dobrynin was told by Kissinger to deal with the Secretary of State only on a limited range of less vital matters. Kissinger also maintained similar relationships with Chinese leader Chou En-lai and Israeli Ambassador Rabin.

In carrying on his activist, operational undertakings, Kissinger relied upon special controlled communications. CIA communications were used for his "back channel" messages so that the Department of State was kept in the dark. He also used the White House Communication Agency including the use of special aircraft as communication centers. With his negotiations in Paris in 1971

regarding Vietnam, with Israelis and Arabs after 1973, and with the Soviet Union in advance of summit meetings, Kissinger was a traveling negotiator, and the NSC was a system on the move. Jeanne Davis, the NSC Executive Secretary, also facilitated the handling of sensitive correspondence by propelling the NSC staff into the computer age with a document tracking system unheard of by Kissinger's predecessors.

The waning of Nixon's power during the Watergate affair further increased Kissinger's influence. On September 22, 1973, Kissinger became Secretary of State, replacing Rogers. For the first time, one individual held simultaneously the positions of National Security Adviser and Secretary of State.

Under these unique circumstances, Kissinger strengthened his institutional base as the administration's principal foreign policy adviser. Kissinger later admitted, however, that the union of the two positions did not work. Department of State representatives were his subordinates while he wore his Secretary of State hat. When he chaired a meeting, they had to represent his point of view or else all interdepartmental matters would be outside his control. Kissinger indicated he was in an inherently absurd position of either pushing his Department's views as chairman or dissociating himself from his subordinates.

Ford Administration, 1974-1977

President Ford, who assumed office in August 1974, was relatively inexperienced in foreign affairs. He therefore relied almost exclusively on Kissinger's expertise and advice. During 1975, however, there developed strong public and congressional disapproval of the accretion of so much power over foreign policy in the hands of one man. As part of a Cabinet shakeup on November 3, 1975, Ford named Lieutenant General Brent Scowcroft, Kissinger's deputy at the NSC, as National Security Adviser.

Kissinger was at first resentful of the loss of his unique, dual position. He soon discovered, however, as he wrote in his memoirs, that Scowcroft's appointment in no way diminished his real power within the administration because he kept Ford's confidence and unlimited access, and Scowcroft in no way sought to advocate policies in competition with the Secretary of State. Kissinger continued to have a cordial relationship with Scowcroft, and both men exchanged ideas constantly. In turn, Scowcroft was content to operate in a quiet, unobtrusive way. He took seriously the NSC obligation to present the President with clear analyses and options for decision. He managed a toned-down version of the Kissinger NSC system that was compatible with the Secretary of State's role as the President's chief foreign policy adviser. Many of the most aggressive members of Kissinger's NSC team also made the move to State, allowing Scowcroft to fashion a staff that reflected the new relationships.

Carter Administration, 1977-1981

Carter began his term determined to eliminate the abuses he ascribed to the Kissinger NSC under Nixon and Ford. He believed that Kissinger had amassed too much power during his tenure as NSC Adviser and Secretary of State, and effectively shielded his Presidents from competing viewpoints within the foreign policy establishment. Carter resolved to maintain his access to a broad spectrum of information by more fully engaging his Cabinet officers in the decision-making process. He envisaged the role of the National Security Council to be one of policy coordination and research, and reorganized the NSC structure to ensure that the NSC Adviser would be only one of many players in the foreign policy process. Carter chose Zbigniew Brzezinski for the position of National Security Adviser because he wanted an assertive intellectual at his side to provide him with day-to-day advice and guidance on foreign policy decisions.

Initially, Carter reduced the NSC staff by one-half and decreased the number of standing NSC committees from eight to two. All issues referred to the NSC were reviewed by one of the two new committees, either the Policy Review Committee (PRC) or the Special Coordinating Committee (SCC). The PRC focused on specific issues that fell largely within the jurisdiction of one department. Its chairmanship rotated to whichever department head had primary responsibility for the issue, most often the Department of State, and committee membership was frequently expanded as circumstances warranted.

Unlike the Policy Review Committee, the Special Coordinating Committee was always chaired by the NSC Adviser. Carter believed that by making the NSC Adviser chairman of only one of the two committees, he would prevent the NSC from being the overwhelming influence on foreign policy decisions. The SCC was charged with considering issues that cut across several departments, including oversight of intelligence activities, arms control evaluation, and crisis management. Much of the SCC's time during the Carter years was spent on SALT issues.

President Carter changed the name of the documents in the decision-making process, although the mechanics of NSC review differed little from that of previous administrations. The Presidential Review Memorandum (PRM) replaced the National Security Study Memorandum (NSSM), and the Presidential Directive (PD) supplanted the National Security Decision Memorandum (NSDM). PRMs identified topics to be researched by the NSC, defined the problem to be analyzed, set a deadline for the completion of the study, and assigned responsibility for it to one of the two NSC committees. If the selected committee were the Policy Review Committee, a member was designated to serve as study chairman. The study chairman assigned an ad hoc working group to complete the study, which was ultimately reviewed by the responsible committee (either the PRC or SCC). When the committee was satisfied that the study had incorporated meaningful options and supporting arguments, the study's conclusions went to the President in a 2- or 3-page memorandum, which in turn formed the basis for a Presidential Directive.

The actual operation of the NSC under Carter was less structured than under previous Presidents. The Council held few formal meetings, convening only 10 times, compared with 125 meetings during the 8 years of the Nixon and Ford administrations. Instead, Carter used frequent, informal meetings as a decision-making device, typically his Friday breakfasts, usually attended by the Vice President, the Secretaries of State and Defense, the NSC Adviser, and the chief domestic adviser. The President counted on the free flow of ideas, unencumbered by a formal setting, to increase the chances of an informed decision.

Critics have contended that the Carter NSC staff was deficient in certain respects. The NSC's emphasis on providing advice was effected at the expense of some of its other functions, particularly its responsibility to monitor implementation of the President's policies. Also, the President's and some of his principals' commitment to arms control skewed the formation and execution of a broad range of foreign policy options on national security questions. Without any clearly-developed foreign policy principles beyond a commitment to arms control, he often changed his mind, depending on the advice he was receiving at the time.

Carter's preference for informality and openness increased the diversity of views he received and complicated the decision-making process. Every Friday, for example, the President breakfasted with Vice President Mondale, Secretary of State Vance, Secretary of Defense Brown, Brzezinski, and several White House advisers. No agendas were prepared and no formal records were kept of these meetings, sometimes resulting in differing interpretations of the decisions actually agreed upon. This problem led to one of the most embarrassing episodes of the Carter administration in which the United States had to retract a UN vote involving Israel and Jerusalem. Brzezinski was careful, in managing his own weekly luncheons with Secretaries Vance and Brown in preparation for NSC discussions, to maintain a complete set of careful notes. Brzezinski also sent weekly reports to the President on major foreign policy undertakings and problems, with recommendations for courses of action. President Carter enjoyed these reports and frequently annotated them with his own views. Brzezinski and the NSC used these Presidential notes (159 of them) as the basis for NSC actions.

At the outset of the administration, Brzezinski successfully persuaded Carter to make the National Security Adviser chairman of the SCC. This meant that Brzezinski was given oversight responsibility for the SALT negotiations, which became an important focus of the Carter administration's foreign policy. Brzezinski's coordination of the arms control process also gave him major input into the administration's policy toward the Soviet Union. Thus from the beginning, Brzezinski made sure that the new NSC institutional relationships would assure him a major voice in the shaping of foreign policy. While he knew that Carter would not want him to be another Kissinger, Brzezinski also felt confident that the President did not want Secretary of State Vance to become another Dulles and would want his own input on key foreign policy decisions.

Vance voiced his displeasure with this arrangement, which threatened to diminish the role of the Department of State on arms control. The SCC, however, functioned fairly smoothly on arms control. Following Vance's visit to Moscow in March 1977 to present new arms control proposals, which the Soviet leadership abruptly rejected, the SCC developed and refined arms control proposals for U.S. negotiators at the SALT talks in Geneva. President Carter carefully monitored the work of the SCC, which met with increasing frequency from 1977 to 1979. The President's personal commitment to SALT II ultimately overcame fundamental differences between the National Security Adviser and the Secretary of State. Brzezinski wanted to link arms control to other security issues, such as the administration's commitment to the development of the MX missile and normalization of relations with the People's Republic of China. Vance, however, did not want SALT linked to other Soviet activity. When the SALT II negotiations with the Soviet Union verged on success, an NSC working group, including a Department of State representative, formulated the subject areas for an agenda at the Vienna Summit (June 1979), at which Carter and Brezhnev signed the SALT II Treaty and discussed other bilateral and Third World issues.

Brzezinski's power gradually expanded into the operational area during the Carter Presidency. He increasingly assumed the role of a Presidential emissary. In 1978, for example, Brzezinski traveled to Beijing to normalize U.S.-China relations. Like Kissinger before him, Brzezinski maintained his own personal relationship with Soviet Ambassador Dobrynin. Brzezinski had NSC staffers monitor State Department cable traffic through the Situation Room and call back to the Department if the President preferred to revise or take issue with outgoing Department instructions. He also appointed his own press spokesman, and his frequent press briefings and appearances on television interview shows made him a prominent public figure although perhaps not nearly as much as Kissinger had been under Nixon.

In other areas the NSC system did not work effectively. The reasons stemmed less from inherent institutional defects than from strong policy differences within the administration and President Carter's inability to discipline his advisers and forge a more coherent response to the crises of the last few years of his Presidency. The Soviet military invasion of Afghanistan in December 1979 further damaged the Vance-Brzezinski relationship. Vance felt that Brzezinski's linkage of SALT to other Soviet activities and the MX, together with the growing domestic criticisms in the United States of the SALT II Accord, convinced Brezhnev to decide on military intervention in Afghanistan. Brzezinski, however, later recounted that he advanced proposals to maintain Afghanistan's "independence" but was frustrated by the Department of State's opposition. An NSC working group on Afghanistan wrote several reports on the deteriorating situation in 1979, but President Carter ignored them until the Soviet intervention destroyed his illusions. Only then did he decide to abandon SALT II ratification and pursue the anti-Soviet policies that Brzezinski proposed.

The Iranian revolution provided the coup de grace to the disintegrating Vance(Brzezinski relationship. As the upheaval developed, the two advanced fundamentally different positions. Brzezinski wanted to control the revolution and increasingly suggested military action to prevent Khomeini from coming to power, while Vance wanted to come to terms with the new Khomeini regime. As a consequence Carter failed to develop a coherent approach to the Iranian situation. Brzezinski continued, however, to promote his views, which the President eventually accepted. Vance's resignation following the unsuccessful mission undertaken over his objections to rescue the American hostages in March 1980 was the final result of the deep disagreement between Brzezinski and Vance.

Reagan Administration, 1981-1989

The Reagan administration, like its predecessors, faced the recurring dilemma of determining which official or agency would have primary responsibility for the direction, control, and supervision of U.S. foreign policy. During the 1980 campaign, Ronald Reagan pledged to downgrade the post of National Security Adviser in order to end the rivalry between the NSC and the Department of State that had plagued previous administrations. On inauguration day, Secretary of State-designate Alexander Haig presented a draft National Security Decision Directive (NSDD) on the organization of U.S. foreign policy to Presidential Counselor Edwin Meese III. The intent of Haig's draft was to place overall responsibility for the direction and implementation of U.S. foreign policy within the Department of State. Relying on his experience in the Nixon administration, Haig wanted to ensure Department of State control of the interagency groups within the NSC because they were the "key [to] the flow of options to the President," and thus to policy control.

Haig's initiative, which he repeated on several occasions, was never responded to. Senior members of the White House staff, Counselor Meese, Chief of Staff James A. Baker III, and Michael Deaver were concerned that the proposed reorganization took too much power out of the President's hands and that an activist Secretary of State operating with wide powers could eclipse the President in his public role as the chief enunciator of U.S. foreign policy. Although the Haig initiative failed, the Secretary of State appeared to achieve for a time broad authority over the formulation of foreign policy. The President placed National Security Adviser Richard Allen's office under the supervision of Meese, and for the first time in the history of the NSC, the National Security Adviser lost direct access to the President. In subsequent public statements, the President underlined his belief that his Secretary of State was his "primary adviser on foreign affairs, and in that capacity, he is the chief formulator and spokesman for foreign policy for this administration." Allen, who had less personal authority, undertook a role as National Security Adviser that emphasized the "integration" of the proposed policies and views of the foreign affairs agencies. Nor did he take on any of the articulation of administration foreign policy(a responsibility left to Secretary Haig who at first thought of himself as the "Vicar" of foreign affairs.

Changes were made in the NSC from the outset of the Reagan presidency. At a February 25, 1981, meeting chaired by Meese, Cabinet-level heads of the major foreign affairs agencies agreed on a plan to establish three Senior Interdepartmental Groups (SIGs) on foreign, defense, and intelligence problems, chaired respectively by the Secretaries of State and Defense and the Director of Central Intelligence. Under the SIGs, a series of Assistant Secretary-level Interdepartmental Groups (IGs), each chaired by the agency with particular responsibility, dealt with specific issues. The NSC staff was responsible for the assignment of issues to the groups.

One example of a failed effort to create a new NSC organ in the hopes of improving interagency coordination and reducing friction among the Departments of State and Defense, the CIA, and the NSC, was President Reagan's order on March 24, 1981, naming Vice President George Bush as chair of a proposed administration crisis management team. The NSC was charged with providing staff support for this effort. The crisis group, referred to as the Special Situation Group (SSG) received a formal charter on December 14, 1981, but in fact only met once. Secretary Haig immediately and forcefully complained that the SSG would remove coordinating responsibility from him.

In another effort to improve policy coordination during the summer of 1981, the President authorized the creation of a National Security Planning Group (NSPG) composed of the Vice President, the Secretaries of State and Defense, the Director of Central Intelligence, the Chairman of the Joint Chiefs of Staff, and the National Security Adviser. This group met weekly with the President and shaped policy prior to formal meetings of the NSC.

In January 1982, following the resignation of National Security Adviser Allen, the President appointed a close personal friend, Deputy Secretary of State William Clark, as his new adviser. The brief episode of the weakened National Security Adviser was over. Clark would report directly to the President and not through Meese or the other two members of the triumvirate of Baker and Deaver as Allen had done. President Reagan issued a written directive (NSDD(2) in January 1982 outlining the structure and functions of the National Security Council. The directive placed responsibility for developing, coordinating, and monitoring national security policy with the National Security Adviser in consultation with the NSC members. It assigned to the Secretary of State "authority and responsibility" for the "overall direction, coordination and supervision of the interdepartmental activities incident to foreign policy formulation, and the activities of executive departments and agencies overseas," except for military activities. NSDD(2) delineated the functions of the three SIGs. It designated the Secretary of State as chairman of the Senior Interdepartmental Group for Foreign Policy (SIG(FP)), and established a "permanent secretariat, composed of personnel of the State Department," augmented "as necessary" by other agency personnel requested by the Secretary of State, to deal with foreign affairs matters.

To assist the SIG(FP, the Secretary of State set up Interagency Groups (IGs) for each geographic region, politico-military affairs, and international economic affairs. The IGs, in turn, created full-time working groups. The two other SIGs followed a similar structure under the leadership of the Secretary of Defense and the Director of Central Intelligence. Over the next 5 years, the Reagan administration established an additional 22 SIGs and 55 IGs within the NSC system. Some committees met only once. Observers pointed out the overuse of SIGs and the increasing snarl of responsibilities that led to enterprising NSC officials like Colonel Oliver North developing their own sub-domains within the policy-making system. Zbigniew Brzezinski described the NSC as entering its "Mid Life Crisis" during the Reagan years.

Clark took a very active role in coordination of policy among the agencies in such areas as intelligence and the protection of classified security information. He replaced a number of senior NSC staff members and reorganized his office to create three "clusters" to deal with political, military, and intelligence matters. Clark emerged as a major spokesman for Reagan administration foreign policy, particularly with the Congress. He publicly reaffirmed President Reagan's stated policy that the Secretary of State would be the primary "formulator and enunciator of foreign policy." At the same time, however, Clark insisted that the role of the President as the final arbiter on matters of foreign policy be kept in front of the public. He also asserted NSC staff jurisdiction over long-range policy review, formerly a Department of State function.

The NSC system under Clark did not solve the coordination problems. Friction between the Department of State and the NSC continued and came to a head during the intense debates within the administration over how the United States should act in the Lebanon crisis in the spring of 1982 following the Israel invasion. The disputes resulted in Secretary Haig's resignation on June 25, 1982, and President Reagan's appointment of George P. Shultz as his new Secretary of State. In his July confirmation hearings, Shultz emphasized the primary role of the President in the formulation of policy and stressed the collegial nature of policy formulation in the Reagan administration. Shultz also referred to the delegation of authority as laid out in NSDD(2 as the source of his own responsibilities and authority.

The apparent resolution of the dimensions of the Secretary of State's authority ironically coincided with ever-increasing activities in the foreign affairs field. The NSC frequently disagreed with the Department of State over the management of daily U.S. foreign relations problems. One observer called the NSC a "bee hive of activity." An NSC-chaired group took over arms control responsibilities from a State-chaired group (SAC/G) and ramrodded the tough negotiating position favored by ACDA Chief Fred Ikle and Richard Perle of the Defense Department. Deputy National Security Adviser Robert McFarlane replaced Philip C. Habib as the chief U.S. Middle East negotiator in July 1983, and the National Security

Adviser became directly involved in the operations of foreign policy. It led to a major change in how the NSC system worked.

In October 1983, McFarlane replaced Clark as National Security Adviser, with Admiral John Poindexter as his deputy. The new National Security Adviser had a background in both military and diplomatic affairs. Retaining the NSC structural changes established by Clark, McFarlane played a highly active role in attempting to compromise interagency disputes. He lacked the personal ties with the President that Clark enjoyed, but continued to have direct Presidential access. During his tenure, the National Security Adviser stepped back from the previous high profile in public policy enunciation, but became more involved in the direct management of key areas of foreign policy.

During 1985 and 1986, the National Security Adviser and certain staff members took a particularly activist role in the formulation and execution of policy in the Caribbean, Central America, and the Middle East. It was an activism run amok in the "Iran-Contra affair" that brought the NSC to a nadir of public trust and brought upon it Congressional investigation and the threat of prison for those involved. The Iran-Contra matter resulted from NSC-led efforts to develop a policy to befriend Iran and provide arms to that nation in exchange for its resistance to the Soviet Union and, more particularly to assist in the freeing of American hostages held by Moslem extremist groups in the Middle East. National Security Adviser McFarlane and Admiral Poindexter, who succeeded him in December 1985, played major roles in these matters. The efforts to provide arms for hostages eventually became connected, through the transfer of funds made with arms sales, with the NSC staff's ardent support for the Nicaraguan "Contras" in their civil war against the left-wing government of Nicaragua. Investigations in 1987 and thereafter by a Presidential Review Board (the Tower Board), the Congress, and a Special Prosecutor examined in great detail the activities of the NSC staff, as well as the actions and responsibilities of the President, the National Security Adviser, and the heads of agencies.

The Tower Board, headed by Senator John Tower and including former Senator Edmund Muskie and former National Security Adviser Scowcroft, not only reviewed the events of Iran-Contra but made a body of recommendations for the reform of the NSC. NSDD(266 of March 31, 1987, adopted the Board's major recommendations: reduction of the size of the staff, appointment of a legal counsel, removal of the Crisis Pre-Planning Group, and its replacement with Policy Review Committee. The spirit of the reforms was given more content by the new NSC leadership appointed by President Reagan in November 1987: National Security Adviser Frank Carlucci and Deputy National Security Adviser Lieutenant General Colin Powell. Carlucci reformed the NSC by replacing more than half of the professional staff within 3 months. Carlucci largely withdrew the NSC from its operational roles, but in the matter of Nicaragua, NSC continued to exercise the coordination that was not forthcoming from any of the agencies.

In the autumn of 1988, Carlucci was called to the Defense Department to succeed Caspar Weinberger, and for the third time among his six appointments to the position of National Security Adviser during his presidency, Reagan promoted the Deputy. General Powell directed an NSC that strived to provide balanced coordination of major foreign policy presentations for the President. Managing the Policy Review Group and the National Security Planning Group that Poindexter had so favored in preparing the NSC for discussions, Powell conducted an NSC process that was efficient but low key. There were no longer free-lancers operating out of the NSC staff. Under Powell's direction, the President and his chief advisers weathered the Persian Gulf crisis in 1987(1988, the wind-down of the Nicaraguan Contra effort, and the Reagan-Gorbachev relationship culminating in the Moscow Summit of June 1988(the smoothest ever seen by observers at the time.

Bush Administration, 1989-1992

After serving 8 years as Vice President and participating in the momentous foreign affairs events of the Reagan administration, President George Bush made many changes in the NSC machinery reformed by Carlucci and Powell. On the date of his inauguration, January 20, 1989, President Bush issued NSD(1 providing the charter for NSC administration. A Policy Review Group was enlarged to a Committee, the Deputy National Security Adviser managed the Deputies Committee, and a Principals Committee screened matters for the NSC to consider. Eight Policy Coordinating Committees assumed regional and functional responsibilities in place of the multiple interagency groups from the Reagan era. NSC policy papers were named National Security Review papers (NSRs) and National Security Directives (NSDs) to distinguish them from the Reagan era documentation.

President Bush brought deep experience to the NSC leadership with his appointment of General Brent Scowcroft as National Security Adviser. Scowcroft had served in the Kissinger NSC, had been National Security Adviser in the last years of the Ford administration, and had chaired the President's Board examining the Iran-Contra scandal. Robert Gates served as Deputy National Security Adviser under Scowcroft until his appointment as Director of Central Intelligence in 1991. Scowcroft's direction of the NSC was distinguished by the informality but intensity of the relationship with the President. The NSC also maintained good relationships with the other agencies, and Secretary of State Baker and Scowcroft appear to have maintained the most comradely working terms. Through the collapse of the USSR and the unification of Germany, Operation Just Cause which sent American troops into Panama in December 1989, and Operation Desert Shield and Desert Storm, the NSC worked effectively in facilitating a series of American foreign policy successes. Nor did Scowcroft fail to involve in key operations Deputy Secretary of State Eagleburger, such as when he visited China in July 1989 to try to improve U.S. relations with China in the aftermath of the pro-democracy demonstrations in Tiananmen Square.

Clinton Administration, 1993-1997

President William J. Clinton on January 20, 1993, the day of his inauguration, issued Presidential Decision Directive 1 to departments and agencies concerned with national security affairs. PDD 1 revised and renamed the framework governing the work of the National Security Council. A Presidential Review Directive (PRD) series would be the mechanism used by the new administration to direct that specific reviews and analyses be undertaken by the departments and agencies. A Presidential Decision Directive (PDD) series would now be used to promulgate Presidential decisions on national security matters. The Bush administration's National Security Review (NSR) series and National Security Directive (NSD) series were abolished.

On January 21, 1993, in PDD 2, President Clinton approved an NSC decision-making system that enlarged the membership of the National Security Council and included a much greater emphasis on economic issues in the formulation of national security policy. The President, Vice President, Secretary of State, and Secretary of Defense were members of the NSC as prescribed by statute. The Director of Central Intelligence and Chairman of the Joint Chiefs of Staff, as statutory advisers to the NSC, attended its meetings. The new membership of the National Security Council included the following officials: the Secretary of the Treasury, the U.S. Representative to the United Nations, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and the Chief of Staff to the President. Although not a member, the Attorney General would be invited to attend meetings pertaining to his jurisdiction. The heads of other Executive departments and agencies, the special statutory advisers to the NSC, and other senior officials would be invited to attend meetings of the NSC where appropriate.

The new position of Assistant to the President for Economic Policy, which had been promised by Clinton during the election campaign, was intended to serve as a senior economic adviser to coordinate foreign and domestic economic policy through a newly-created National Economic Council (NEC). Robert E. Rubin was the first to be appointed to this position. The NEC was to deal with foreign and domestic economic issues in much the same way as the NSC coordinated diplomatic and security issues, and the Assistant to the President for Economic Policy was to be included in meetings involving international economic issues.

In January 1993, Clinton appointed W. Anthony Lake as his National Security Adviser. Lake, a former Foreign Service officer, served under Henry Kissinger, President Nixon's National Security Adviser, and as director of the Department of State Policy Planning Staff during the Carter administration. During the Carter years, Lake had witnessed the negative effects of bureaucratic infighting and squabbling between Secretary of State Vance and National Security Adviser Brzezinski. As Clinton's National Security Adviser, Lake was effective in maintaining cordial relations with Secretary of State Warren M. Christopher and

in developing an atmosphere of cooperation and collegiality. Lake initially maintained a low public profile, avoiding public appearances and television interviews, so as not to upstage the Secretary of State as Kissinger had done in the Nixon administration. In September 1993, however, in response to criticism that the Clinton administration had not adequately explained its foreign policy, Lake began to appear as a public speaker.

The National Security Council framework in the Clinton administration included an NSC Principals Committee, a forum available to Cabinet-level officials to discuss and resolve issues not requiring the President's participation. An NSC Deputies Committee served as the senior sub-cabinet interagency forum for considering policy issues affecting national security and for reviewing and monitoring the work of the NSC interagency process. This process included Interagency Working Groups (IWGs), which were to convene on a regular basis to review and coordinate the implementation of Presidential decisions in their respective policy areas. Among the most urgent issues the NSC dealt with in the first year of the Clinton administration were Bosnia, Haiti, Iraq, and Somalia. The several dozen other questions the NSC system dealt with initially included such issues as illegal drugs, United Nations peacekeeping, Zaire, strategic arms control policy, China, and global environmental affairs.

Samuel R. "Sandy" Berger, a longtime foreign policy adviser to Clinton who had been Lake's deputy since 1993, became National Security Adviser in March 1997, after Clinton nominated Lake to be Director of Central Intelligence. (Lake subsequently withdrew from the nomination.) Berger initiated a review of principles that would guide the foreign policy of Clinton's second term. These included the integration of Eastern and Western Europe without provoking tensions with Russia; promoting more open trade; improving defenses against such transnational threats as terrorism and narcotics; and promoting a strong and stable Asian-Pacific community by seeking trade cooperation with China and avoiding confrontation on human rights issues. In the spring and summer of 1997, the National Security Council became occupied with such issues as the ratification of the Chemical Weapons Treaty, NATO enlargement, the Middle East peace process, the U.S-Russian Summit at Helsinki, and the Denver Economic Summit.

Source

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