

Calendar No. 119

106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session  
**H. R. 1555**

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## **AN ACT**

To authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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MAY 18 (legislative day, MAY 14), 1999

Received; read twice and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

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**AN ACT**

To authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5 “Intelligence Authorization Act for Fiscal Year 2000”.

6        (b) TABLE OF CONTENTS.—The table of contents for  
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

- Sec. 101. Authorization of appropriations.
- Sec. 102. Classified schedule of authorizations.
- Sec. 103. Personnel ceiling adjustments.
- Sec. 104. Community Management Account.
- Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 1999.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
 DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Increase in employee compensation and benefits authorized by law.
- Sec. 302. Restriction on conduct of intelligence activities.
- Sec. 303. Sense of the Congress on intelligence community contracting.
- Sec. 304. Report on effects of foreign espionage on United States trade secrets.
- Sec. 305. Protection of identity of retired covert agents.
- Sec. 306. Report on activities of the Central Intelligence Agency in Chile.
- Sec. 307. Report on legal standards applied for electronic surveillance.
- Sec. 308. Report on Kosova Liberation Army.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Two-year extension of CIA central services program.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Protection of operational files of the National Imagery and Mapping Agency.

TITLE VI—PROHIBITION ON DRUG TRAFFICKING BY EMPLOYEES  
 OF THE INTELLIGENCE COMMUNITY

Sec. 601. Prohibition on drug trafficking by employees of the intelligence community.

1                   **TITLE I—INTELLIGENCE**  
2                   **ACTIVITIES**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4           Funds are hereby authorized to be appropriated for  
5 fiscal year 2000 for the conduct of the intelligence and  
6 intelligence-related activities of the following elements of  
7 the United States Government:

8                   (1) The Central Intelligence Agency.

9                   (2) The Department of Defense.

10                  (3) The Defense Intelligence Agency.

11                  (4) The National Security Agency.

12                  (5) The Department of the Army, the Depart-  
13                  ment of the Navy, and the Department of the Air  
14                  Force.

15                  (6) The Department of State.

16                  (7) The Department of the Treasury.

17                  (8) The Department of Energy.

18                  (9) The Federal Bureau of Investigation.

19                  (10) The National Reconnaissance Office.

20                  (11) The National Imagery and Mapping Agen-  
21                  cy.

22 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

23           (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL  
24 CEILINGS.—The amounts authorized to be appropriated  
25 under section 101, and the authorized personnel ceilings

1 as of September 30, 2000, for the conduct of the intel-  
2 ligence and intelligence-related activities of the elements  
3 listed in such section, are those specified in the classified  
4 Schedule of Authorizations prepared to accompany the bill  
5 H.R. 1555 of the One Hundred Sixth Congress.

6 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-  
7 THORIZATIONS.—The Schedule of Authorizations shall be  
8 made available to the Committees on Appropriations of  
9 the Senate and House of Representatives and to the Presi-  
10 dent. The President shall provide for suitable distribution  
11 of the Schedule, or of appropriate portions of the Sched-  
12 ule, within the executive branch.

13 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

14 (a) AUTHORITY FOR ADJUSTMENTS.—With the ap-  
15 proval of the Director of the Office of Management and  
16 Budget, the Director of Central Intelligence may authorize  
17 employment of civilian personnel in excess of the number  
18 authorized for fiscal year 2000 under section 102 when  
19 the Director of Central Intelligence determines that such  
20 action is necessary to the performance of important intel-  
21 ligence functions, except that the number of personnel em-  
22 ployed in excess of the number authorized under such sec-  
23 tion may not, for any element of the intelligence commu-  
24 nity, exceed two percent of the number of civilian per-  
25 sonnel authorized under such section for such element.

1 (b) NOTICE TO INTELLIGENCE COMMITTEES.—The  
2 Director of Central Intelligence shall promptly notify the  
3 Permanent Select Committee on Intelligence of the House  
4 of Representatives and the Select Committee on Intel-  
5 ligence of the Senate whenever he exercises the authority  
6 granted by this section.

7 **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT AC-**  
8 **COUNT.**

9 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
10 authorized to be appropriated for the Intelligence Commu-  
11 nity Management Account of the Director of Central Intel-  
12 ligence for fiscal year 2000 the sum of \$193,572,000.  
13 Within such amount, funds identified in the classified  
14 Schedule of Authorizations referred to in section 102(a)  
15 for the Advanced Research and Development Committee  
16 shall remain available until September 30, 2001.

17 (b) AUTHORIZED PERSONNEL LEVELS.—The ele-  
18 ments within the Community Management Account of the  
19 Director of Central Intelligence are authorized 348 full-  
20 time personnel as of September 30, 2000. Personnel serv-  
21 ing in such elements may be permanent employees of the  
22 Community Management Staff or personnel detailed from  
23 other elements of the United States Government.

24 (c) CLASSIFIED AUTHORIZATIONS.—

1           (1) AUTHORIZATION OF APPROPRIATIONS.—In  
2 addition to amounts authorized to be appropriated  
3 for the Community Management Account by sub-  
4 section (a), there are also authorized to be appro-  
5 priated for the Community Management Account for  
6 fiscal year 2000 such additional amounts as are  
7 specified in the classified Schedule of Authorizations  
8 referred to in section 102(a). Such additional  
9 amounts shall remain available until September 30,  
10 2001.

11           (2) AUTHORIZATION OF PERSONNEL.—In addi-  
12 tion to the personnel authorized by subsection (b)  
13 for elements of the Community Management Ac-  
14 count as of September 30, 2000, there are hereby  
15 authorized such additional personnel for such ele-  
16 ments as of that date as are specified in the classi-  
17 fied Schedule of Authorizations.

18           (d) REIMBURSEMENT.—Except as provided in section  
19 113 of the National Security Act of 1947 (50 U.S.C.  
20 404h), during fiscal year 2000, any officer or employee  
21 of the United States or a member of the Armed Forces  
22 who is detailed to the staff of the Community Management  
23 Account from another element of the United States Gov-  
24 ernment shall be detailed on a reimbursable basis, except  
25 that any such officer, employee, or member may be de-

1 tailed on a nonreimbursable basis for a period of less than  
2 one year for the performance of temporary functions as  
3 required by the Director of Central Intelligence.

4 (e) NATIONAL DRUG INTELLIGENCE CENTER.—

5 (1) IN GENERAL.—Of the amount appropriated  
6 pursuant to the authorization in subsection (a), the  
7 amount of \$27,000,000 shall be available for the  
8 National Drug Intelligence Center. Within such  
9 amount, funds provided for research, development,  
10 test, and evaluation purposes shall remain available  
11 until September 30, 2001, and funds provided for  
12 procurement purposes shall remain available until  
13 September 30, 2002.

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

21 (3) LIMITATION.—Amounts available for the  
22 National Drug Intelligence Center may not be used  
23 in contravention of the provisions of section  
24 103(d)(1) of the National Security Act of 1947 (50  
25 U.S.C. 403–3(d)(1)).

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

5 **SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLE-**  
6                           **MENTAL APPROPRIATIONS FOR FISCAL YEAR**  
7                           **1999.**

8           (a) **AUTHORIZATION.**—Amounts authorized to be ap-  
9           propriated for fiscal year 1999 under section 101 of the  
10          Intelligence Authorization Act for Fiscal Year 1999 (Pub-  
11          lic Law 105–272) for the conduct of the intelligence activi-  
12          ties of elements of the United States Government listed  
13          in such section are hereby increased, with respect to any  
14          such authorized amount, by the amount by which appro-  
15          priations pursuant to such authorization were increased  
16          by an emergency supplemental appropriation in a supple-  
17          mental appropriations Act for fiscal year 1999 that is en-  
18          acted after May 1, 1999, for such amounts as are des-  
19          ignated by Congress as an emergency requirement pursu-  
20          ant to section 251(b)(2)(A) of the Balanced Budget and  
21          Emergency Deficit Control Act of 1985 (2 U.S.C.  
22          901(b)(2)(A)).

23          (b) **RATIFICATION.**—For purposes of section 504 of  
24          the National Security Act of 1947 (50 U.S.C. 414), any  
25          obligation or expenditure of those amounts deemed to have

1 been specifically authorized by Congress in the Act re-  
2 ferred to in subsection (a) is hereby ratified and con-  
3 firmed.

4 **TITLE II—CENTRAL INTEL-**  
5 **LIGENCE AGENCY RETIRE-**  
6 **MENT AND DISABILITY SYS-**  
7 **TEM**

8 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated for the Cen-  
10 tral Intelligence Agency Retirement and Disability Fund  
11 for fiscal year 2000 the sum of \$209,100,000.

12 **TITLE III—GENERAL**  
13 **PROVISIONS**

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

16 Appropriations authorized by this Act for salary, pay,  
17 retirement, and other benefits for Federal employees may  
18 be increased by such additional or supplemental amounts  
19 as may be necessary for increases in such compensation  
20 or benefits authorized by law.

21 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**  
22 **ACTIVITIES.**

23 The authorization of appropriations by this Act shall  
24 not be deemed to constitute authority for the conduct of

1 any intelligence activity which is not otherwise authorized  
2 by the Constitution or the laws of the United States.

3 **SEC. 303. SENSE OF THE CONGRESS ON INTELLIGENCE**  
4 **COMMUNITY CONTRACTING.**

5 It is the sense of the Congress that the Director of  
6 Central Intelligence should continue to direct that ele-  
7 ments of the intelligence community, whenever compatible  
8 with the national security interests of the United States  
9 and consistent with operational and security concerns re-  
10 lated to the conduct of intelligence activities, and where  
11 fiscally sound, should competitively award contracts in a  
12 manner that maximizes the procurement of products prop-  
13 erly designated as having been made in the United States.

14 **SEC. 304. REPORT ON EFFECTS OF FOREIGN ESPIONAGE**  
15 **ON UNITED STATES TRADE SECRETS.**

16 By not later than 270 days after the date of the en-  
17 actment of this Act, the Director of Central Intelligence  
18 shall submit to Congress a report describing the effects  
19 of espionage against the United States, conducted by or  
20 on behalf of other nations, on United States trade secrets,  
21 patents, and technology development. The study shall in-  
22 clude an analysis of the effects of such espionage on the  
23 trade deficit of the United States and on the employment  
24 rate in the United States.

1 **SEC. 305. PROTECTION OF IDENTITY OF RETIRED COVERT**  
2 **AGENTS.**

3 (a) IN GENERAL.—Section 606(4)(A) of the National  
4 Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

5 (1) by striking “an officer or employee” and in-  
6 serting “a present or retired officer or employee”;  
7 and

8 (2) by striking “a member” and inserting “a  
9 present or retired member”.

10 (b) IMPOSITION OF MINIMUM PRISON SENTENCES  
11 FOR VIOLATIONS.—Section 601 of the National Security  
12 Act of 1947 (50 U.S.C. 421) is amended—

13 (1) in subsection (a), by striking “shall be fined  
14 not more than \$50,000 or imprisoned not more than  
15 ten years, or both.” and inserting “shall be impris-  
16 oned not less than five years and not more than ten  
17 years and fined not more than \$50,000.”.

18 (2) in subsection (b), by striking “shall be fined  
19 not more than \$25,000 or imprisoned not more than  
20 five years, or both.” and inserting “shall be impris-  
21 oned not less than 30 months and not more than  
22 five years and fined not more than \$25,000.”.

23 (3) in subsection (c), by striking “shall be fined  
24 not more than \$15,000 or imprisoned not more than  
25 three years, or both.” and inserting “shall be impris-

1           oned not less than 18 months and not more than  
2           three years and fined not more than \$15,000.”.

3 **SEC. 306. REPORT ON ACTIVITIES OF THE CENTRAL INTEL-**  
4 **LIGENCE AGENCY IN CHILE.**

5           (a) IN GENERAL.—By not later than 120 days after  
6 the date of the enactment of this Act, the Director of Cen-  
7 tral Intelligence shall submit to the appropriate congres-  
8 sional committees a report describing all activities of offi-  
9 cers, covert agents, and employees of all elements in the  
10 intelligence community with respect to the following events  
11 in the Republic of Chile:

12                   (1) The assassination of President Salvador  
13 Allende in September 1973.

14                   (2) The accession of General Augusto Pinochet  
15 to the Presidency of the Republic of Chile.

16                   (3) Violations of human rights committed by of-  
17 ficers or agents of former President Pinochet.

18           (b) DOCUMENTATION.—The report submitted under  
19 subsection (a) shall include copies of unedited documents  
20 in the possession of any such element of the intelligence  
21 community with respect to such events.

22           (c) DEFINITION.—In this section, the term “appro-  
23 priate congressional committees” means the Permanent  
24 Select Committee on Intelligence and the Committee on  
25 Appropriations of the House of Representatives, and the

1 Select Committee on Intelligence and the Committee on  
2 Appropriations of the Senate.

3 **SEC. 307. REPORT ON LEGAL STANDARDS APPLIED FOR**  
4 **ELECTRONIC SURVEILLANCE.**

5 (a) REPORT.—Not later than 60 days after the date  
6 of the enactment of this Act, the Director of Central Intel-  
7 ligence, the Director of the National Security Agency, and  
8 the Attorney General shall jointly prepare, and the Direc-  
9 tor of the National Security Agency shall submit to the  
10 appropriate congressional committees a report in classified  
11 and unclassified form describing the legal standards em-  
12 ployed by elements of the intelligence community in con-  
13 ducting signals intelligence activities, including electronic  
14 surveillance.

15 (b) MATTERS SPECIFICALLY ADDRESSED.—The re-  
16 port shall specifically include a statement of each of the  
17 following legal standards:

18 (1) The legal standards for interception of com-  
19 munications when such interception may result in  
20 the acquisition of information from a communication  
21 to or from United States persons.

22 (2) The legal standards for intentional tar-  
23 geting of the communications to or from United  
24 States persons.

1           (3) The legal standards for receipt from non-  
2           United States sources of information pertaining to  
3           communications to or from United States persons.

4           (4) The legal standards for dissemination of in-  
5           formation acquired through the interception of the  
6           communications to or from United States persons.

7           (c) INCLUSION OF LEGAL MEMORANDA AND OPIN-  
8           IONS.—The report under subsection (a) shall include a  
9           copy of all legal memoranda, opinions, and other related  
10          documents in unclassified, and if necessary, classified form  
11          with respect to the conduct of signals intelligence activi-  
12          ties, including electronic surveillance by elements of the  
13          intelligence community, utilized by the Office of the Gen-  
14          eral Counsel of the National Security Agency, by the Of-  
15          fice of General Counsel of the Central Intelligence Agency,  
16          or by the Office of Intelligence Policy Review of the De-  
17          partment of Justice, in preparation of the report.

18          (d) DEFINITION.—As used in this section:

19           (1) The term “intelligence community” has the  
20           meaning given that term under section 3(4) of the  
21           National Security Act of 1947 (50 U.S.C. 401a(4)).

22           (2) The term “United States persons” has the  
23           meaning given such term under section 101(i) of the  
24           Foreign Intelligence Surveillance Act of 1978 (50  
25           U.S.C. 1801(i)).

1           (3) The term “appropriate congressional com-  
2           mittees” means the Permanent Select Committee on  
3           Intelligence and the Committee on the Judiciary of  
4           the House of Representatives, and the Select Com-  
5           mittee on Intelligence and the Committee on the Ju-  
6           diciary of the Senate.

7 **SEC. 308. REPORT ON KOSOVA LIBERATION ARMY.**

8           (a) REPORT.—Not later than 30 days after the date  
9           of the enactment of this Act, the Director of Central Intel-  
10          ligence shall submit to the appropriate congressional com-  
11          mittees a report (in both classified and unclassified form)  
12          on the organized resistance in Kosova known as the  
13          Kosova Liberation Army. The report shall include the fol-  
14          lowing:

15               (1) A summary of the history of the Kosova  
16          Liberation Army.

17               (2) As of the date of the enactment of this  
18          Act—

19                       (A) the number of individuals currently  
20          participating in or supporting combat oper-  
21          ations of the Kosova Liberation Army (fielded  
22          forces), and the number of individuals in train-  
23          ing for such service (recruits);

24                       (B) the types, and quantity of each type,  
25          of weapon employed by the Kosova Liberation

1 Army, the training afforded to such fielded  
2 forces in the use of such weapons, and the suf-  
3 ficiency of such training to conduct effective  
4 military operations; and

5 (C) minimum additional weaponry and  
6 training required to improve substantially the  
7 efficacy of such military operations.

8 (3) An estimate of the percentage of funding (if  
9 any) of the Kosova Liberation Army that is attrib-  
10 utable to profits from the sale of illicit narcotics.

11 (4) A description of the involvement (if any) of  
12 the Kosova Liberation Army in terrorist activities.

13 (5) A description of the number of killings of  
14 noncombatant civilians (if any) carried out by the  
15 Kosova Liberation Army since its formation.

16 (6) A description of the leadership of the  
17 Kosova Liberation Army, including an analysis of—

18 (A) the political philosophy and program of  
19 the leadership; and

20 (B) the sentiment of the leadership toward  
21 the United States.

22 (b) APPROPRIATE CONGRESSIONAL COMMITTEES.—  
23 As used in this section, the term “appropriate congres-  
24 sional committees” means the Committee on International  
25 Relations and the Permanent Select Committee on Intel-

1 lidence of the House of Representatives, and the Com-  
2 mittee on Foreign Relations and the Select Committee on  
3 Intelligence of the Senate.

## 4 **TITLE IV—CENTRAL** 5 **INTELLIGENCE AGENCY**

### 6 **SEC. 401. TWO-YEAR EXTENSION OF CIA CENTRAL SERV-** 7 **ICES PROGRAM.**

8 Section 21(h)(1) of the Central Intelligence Agency  
9 Act of 1949 (50 U.S.C. 403u(h)(1)) is amended by strik-  
10 ing out “March 31, 2000.” and inserting “March 31,  
11 2002.”.

## 12 **TITLE V—DEPARTMENT OF DE-** 13 **FENSE INTELLIGENCE AC-** 14 **TIVITIES**

### 15 **SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NA-** 16 **TIONAL IMAGERY AND MAPPING AGENCY.**

17 (a) IN GENERAL.—Subchapter I of chapter 22 of title  
18 10, United States Code, is amended by adding at the end  
19 the following new section:

#### 20 **“§ 446. Protection of operational files**

21 “(a) EXEMPTION OF CERTAIN OPERATIONAL FILES  
22 FROM SEARCH, REVIEW, PUBLICATION, OR DISCLO-  
23 SURE.—(1) The Director of the National Imagery and  
24 Mapping Agency, with the coordination of the Director of  
25 Central Intelligence, may exempt operational files of the

1 National Imagery and Mapping Agency from the provi-  
2 sions of section 552 of title 5, United States Code (Free-  
3 dom of Information Act), which require publication, dislo-  
4 sure, search, or review in connection therewith.

5 “(2)(A) Subject to subparagraph (B), for the pur-  
6 poses of this section, the term ‘operational files’ means  
7 files of the National Imagery and Mapping Agency (here-  
8 inafter in this section referred to as ‘NIMA’) concerning  
9 the activities of NIMA that before the establishment of  
10 NIMA were performed by the National Photographic In-  
11 terpretation Center of the Central Intelligence Agency  
12 (NPIC), that document the means by which foreign intel-  
13 ligence or counterintelligence is collected through scientific  
14 and technical systems.

15 “(B) Files which are the sole repository of dissemi-  
16 nated intelligence are not operational files.

17 “(3) Notwithstanding paragraph (1), exempted oper-  
18 ational files shall continue to be subject to search and re-  
19 view for information concerning—

20 “(A) United States citizens or aliens lawfully  
21 admitted for permanent residence who have re-  
22 quested information on themselves pursuant to the  
23 provisions of section 552 of title 5, or section 552a  
24 of title 5, United States Code (Privacy Act of 1974);

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

4           “(C) the specific subject matter of an investiga-  
5 tion by any of the following for any impropriety, or  
6 violation of law, Executive order, or Presidential di-  
7 rective, in the conduct of an intelligence activity:

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

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

12                   “(iii) The Intelligence Oversight Board.

13                   “(iv) The Department of Justice.

14                   “(v) The Office of General Counsel of  
15 NIMA.

16                   “(vi) The Office of the Director of NIMA.

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

21           “(B) The inclusion of information from exempted  
22 operational files in files that are not exempted under para-  
23 graph (1) shall not affect the exemption under paragraph  
24 (1) of the originating operational files from search, review  
25 publication, or disclosure.

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

6       “(5) The provisions of paragraph (1) may not be su-  
7 perseded except by a provision of law which is enacted  
8 after the date of the enactment of this section, and which  
9 specifically cites and repeals or modifies its provisions.

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

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

19               “(i) In any case in which information specifi-  
20 cally authorized under criteria established by an Ex-  
21 ecutive Order to be kept secret in the interests of  
22 national defense or foreign relations is filed with, or  
23 produced for, the court by NIMA, such information  
24 shall be examined ex parte, in camera by the court.

1           “(ii) The court shall, to the fullest extent prac-  
2           ticable, determine the issues of fact based on sworn  
3           written submissions of the parties.

4           “(iii) When a complainant alleges that re-  
5           quested records are improperly withheld because of  
6           improper placement solely in exempted operational  
7           files, the complainant shall support such allegation  
8           with a sworn written submission based upon per-  
9           sonal knowledge or otherwise admissible evidence.

10          “(iv)(I) When a complainant alleges that re-  
11          quested records were improperly withheld because of  
12          improper exemption of operational files, NIMA shall  
13          meet its burden under section 552(a)(4)(B) of title  
14          5, United States Code, by demonstrating to the  
15          court by sworn written submission that exempted  
16          operational files likely to contain responsible records  
17          currently perform the functions set forth in para-  
18          graph (2).

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

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

6           “(vi) If the court finds under this paragraph  
7           that NIMA has improperly withheld requested  
8           records because of failure to comply with any provi-  
9           sion of this subsection, the court shall order NIMA  
10          to search and review the appropriate exempted oper-  
11          ational file or files for the requested records and  
12          make such records, or portions thereof, available in  
13          accordance with the provisions of section 552 of title  
14          5, United States Code, and such order shall be the  
15          exclusive remedy for failure to comply with this sub-  
16          section.

17          “(vii) If at any time following the filing of a  
18          complaint pursuant to this paragraph NIMA agrees  
19          to search the appropriate exempted operational file  
20          or files for the requested records, the court shall dis-  
21          miss the claim based upon such complaint.

22          “(viii) Any information filed with, or produced  
23          for the court pursuant to clauses (i) and (iv) shall  
24          be coordinated with the Director of Central Intel-  
25          ligence prior to submission to the court.

1           “(b) DECENNIAL REVIEW OF EXEMPTED OPER-  
2     ATIONAL FILES.—(1) Not less than once every ten years,  
3     the Director of the National Imagery and Mapping Agency  
4     and the Director of Central Intelligence shall review the  
5     exemptions in force under subsection (a)(1) to determine  
6     whether such exemptions may be removed from the cat-  
7     egory of exempted files or any portion thereof. The Direc-  
8     tor of Central Intelligence must approve any determina-  
9     tion to remove such exemptions.

10           “(2) The review required by paragraph (1) shall in-  
11     clude consideration of the historical value or other public  
12     interest in the subject matter of the particular category  
13     of files or portions thereof and the potential for declas-  
14     sifying a significant part of the information contained  
15     therein.

16           “(3) A complainant that alleges that NIMA has im-  
17     properly withheld records because of failure to comply with  
18     this subsection may seek judicial review in the district  
19     court of the United States of the district in which any  
20     of the parties reside, or in the District of Columbia. In  
21     such a proceeding, the court’s review shall be limited to  
22     determining the following:

23                   “(A) Whether NIMA has conducted the review  
24     required by paragraph (1) before the expiration of  
25     the ten-year period beginning on the date of the en-

1 actment of this section or before the expiration of  
 2 the 10-year period beginning on the date of the most  
 3 recent review.

4 “(B) Whether NIMA, in fact, considered the  
 5 criteria set forth in paragraph (2) in conducting the  
 6 required review.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
 8 at the beginning of subchapter I of chapter 22 of title 10,  
 9 United States Code, is amended by adding at the end the  
 10 following new item:

“446. Protection of operational files.”.

11 **TITLE VI—PROHIBITION ON**  
 12 **DRUG TRAFFICKING BY EM-**  
 13 **PLOYEES OF THE INTEL-**  
 14 **LIGENCE COMMUNITY**

15 **SEC. 601. PROHIBITION ON DRUG TRAFFICKING BY EM-**  
 16 **PLOYEES OF THE INTELLIGENCE COMMU-**  
 17 **NITY.**

18 (a) PURPOSES.—It is the purpose of this section—

19 (1) to prohibit the Central Intelligence Agency  
 20 and other intelligence agencies and their employees  
 21 and agents from participating in drug trafficking ac-  
 22 tivities, including the manufacture, purchase, sale,  
 23 transport, or distribution of illegal drugs; conspiracy  
 24 to traffic in illegal drugs; and arrangements to  
 25 transport illegal drugs; and

1           (2) to require the employees and agents of the  
2           Central Intelligence Agency and other intelligence  
3           agencies to report known or suspected drug traf-  
4           ficking activities to the appropriate authorities.

5           (b) PROHIBITION ON DRUG TRAFFICKING.—No ele-  
6           ment of the intelligence community, or any employee of  
7           such an element, may knowingly encourage or participate  
8           in drug trafficking activities.

9           (c) MANDATE TO REPORT.—Any employee of an ele-  
10          ment of the intelligence community having knowledge of  
11          facts or circumstances that reasonably indicate that any  
12          employee of such an element is involved with any drug  
13          trafficking activities, or other violations of United States  
14          drug laws, shall report such knowledge or facts to the ap-  
15          propriate official.

16          (d) DEFINITIONS.—As used in this section:

17               (1) DRUG TRAFFICKING ACTIVITIES.—

18                   (A) IN GENERAL.—The term “drug traf-  
19                   ficking activities” means the possession, dis-  
20                   tribution, manufacture, cultivation, sale, trans-  
21                   fer, or the attempt or conspiracy to possess,  
22                   distribute, manufacture, cultivate, sell or trans-  
23                   fer illegal drugs (as those terms are applied  
24                   under section 404(c) of the Controlled Sub-  
25                   stances Act (21 U.S.C. 844(c)).

1           (B) INCLUSIONS.—Such term includes ar-  
2           rangements to allow the use of federally owned  
3           or leased vehicles, or other means of transpor-  
4           tation, for the transport of illegal drugs.

5           (2) ILLEGAL DRUGS.—The term “illegal drugs”  
6           means controlled substances (as that term is defined  
7           section 102(6) of the Controlled Substances Act (21  
8           U.S.C. 802(6)) included in schedule I or II under  
9           part B of title II of such Act.

10          (3) EMPLOYEE.—The term “employee” means  
11          an individual employed by an element of the intel-  
12          ligence community, and includes the following indi-  
13          viduals:

14                (A) Employees under a contract with such  
15                an element.

16                (B) Covert agents, as that term is defined  
17                in paragraph (4) of section 606 of the National  
18                Security Act of 1947 (50 U.S.C. 426).

19                (C) An individual acting on behalf, or with  
20                the approval, of an element of the intelligence  
21                community.

22          (4) INTELLIGENCE COMMUNITY.—The term  
23          “intelligence community” has the meaning given  
24          that term under paragraph (4) of section 3 of the  
25          National Security Act of 1947 (50 U.S.C. 401a).

