

0-4  
1

### INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1989

*P.L. 100-453, see page 102 Stat. 1904*

#### DATES OF CONSIDERATION AND PASSAGE

*House May 26, September 14, 1988*

*Senate August 5, September 15, 1988*

**House Report (Intelligence Committee) No. 591(I),  
Apr. 29, 1988 [To accompany H.R. 4387]**

**House Report (Armed Services Committee) No. 591(II),  
May 16, 1988 [To accompany H.R. 4387]**

**Senate Report (Intelligence Committee) No. 100-334,  
May 11, 1988 [To accompany S. 2366]**

**Senate Report (Armed Services Committee) No. 100-404,  
June 28, 1988 [To accompany S. 2366]**

**House Conference Report No. 100-879,  
Aug. 11, 1988 [To accompany H.R. 4387]**

**Cong. Record Vol. 133 (1988)**

*The House bill was passed in lieu of the Senate bill. The House Report (Parts I and II) is set out below and the House Conference Report follows.*

#### HOUSE REPORT NO. 100-591(I)

[page 1]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

[page 2]

#### PURPOSE

The bill would:

- (1) Authorize appropriations for fiscal year 1989 for (a) the intelligence and intelligence-related activities of the U.S. Government, (b) the Intelligence Community Staff and (c) the Central Intelligence Agency Retirement and Disability System;
- (2) Authorize the personnel ceilings on September 30, 1989 for the intelligence and intelligence-related activities of the U.S. Government and exempt the Defense Intelligence Agency and the Defense Mapping Agency from Defense Agency manpower reductions;

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(1)

(3) Permit the Director of Central Intelligence to authorize personnel ceilings in fiscal year 1989 for any intelligence elements up to 2 percent above the authorized levels;

(4) Prohibit procurement of more than three GUARDRAIL RC-12K aircraft and sensors until the submission to Congress of a report on tactical airborne reconnaissance.

(5) Establish restrictions on, and provide specific authorizations of appropriations and transfer authority to, the Federal Bureau of Investigation with respect to its foreign counterintelligence activities;

(6) Establish restrictions on support for military or paramilitary operations in Nicaragua;

(7) Provide authority to the Director of Central Intelligence during fiscal year 1989 to grant monetary or other relief to former employees of the Central Intelligence Agency whose careers were adversely affected as a result of allegations concerning their loyalty;

(8) Establish a five-year demonstration project at the New York Field Division of the Federal Bureau of Investigation to ascertain the effects of certain lump sum and periodic payments on recruitment and retention of personnel and on field operations of the New York Division;

(9) Clarify the Secretary of Defense's authority to use nonappropriated funds for foreign cryptologic support;

(10) Establish a new Assistant Secretary of Defense for Intelligence; and

[page 3]

(11) Make technical corrections to the Defense Intelligence Agency's authority to withhold from public disclosure organizational and personnel information.

OVERALL PERSPECTIVE ON THE INTELLIGENCE BUDGET

COMMITTEE INTENT

The classified schedule of authorizations and the detailed explanation found in the classified annex to this public report contain a thorough discussion of all budget issues considered by the committee and are available to all Members of the House. The schedule of authorizations lists the dollar amounts and personnel ceilings for all the intelligence and intelligence-related programs authorized by the bill. The schedule is directly incorporated into, and is integral to, the bill itself. It is the intent of the committee that all intelligence programs discussed in the annex to this report be conducted in accordance with the guidance and limitations contained therein.

SCOPE OF COMMITTEE REVIEW

The National Foreign Intelligence Program budget consists of resources of the following departments, agencies, and other elements of the Government: (1) the Central Intelligence Agency; (2) The Department of Defense; (3) the Defense Intelligence Agency; (4) the National Security Agency; (5) the Departments of the Army, Navy and Air Force; (6) the Department of State; (7) the Department of the Treasury; (8) the Department of Energy; (9) the Federal Bureau

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

of Investigation; (10) the Drug Enforcement Administration; and (11) the Intelligence Community Staff of the Director of Central Intelligence.

The Department of Defense Tactical Intelligence and Related Activities (TIARA) are a diverse array of reconnaissance and target acquisition programs which are a functional part of the basic military force structure and provide direct information support to military operations. TIARA, as defined by the Joint Chiefs of Staff and the Secretary of Defense, includes those activities outside the Defense Intelligence program which respond to military commanders for operational support information as well as to national command, control, and intelligence requirements. These military intelligence activities also fall within the jurisdiction of the Committee on Armed Services.

During February and March 1988, the Program and Budget Authorization Subcommittee conducted a series of 11 hearings involving a total of more than 30 hours of testimony with witnesses from each major intelligence and intelligence-related program. These budget hearings resulted in written responses to many additional questions.

## OVERALL COMMITTEE FINDINGS AND RECOMMENDATIONS

The administration requested a small percentage of real growth for fiscal year 1989 over the amount Congress appropriated for intelligence in fiscal year 1988. The committee determined that the total amount requested for fiscal year 1989 was approximately correct. The committee recommends a slightly lower level of funding

[page 4]

than that requested by the President. Some proposals have been recommended for deferral or deletion, while a few have been increased. The overall impact of the recommendation is a small reduction in the request. The committee believes that the recommended authorization is a reasonable balance between needed capabilities and prudent cost.

It should be understood that the intelligence budget is largely a subset of the defense budget. Almost all of the intelligence budget is contained within the defense budget both for reasons of security and because the great majority of intelligence activities are conducted by elements of the Department of Defense. Thus, increases and decreases for intelligence are largely changes within the defense budget and are not direct changes to the federal budget as a whole.

## CONSIDERATION OF AMENDMENTS

An amendment was adopted during consideration of the bill which would require the Central Intelligence Agency and the National Security Agency to adopt plans to address underrepresentation of minority groups at each agency by 1991 and to make yearly interim reports of the progress achieved in addressing such underrepresentation.

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(I)

SECTION-BY-SECTION ANALYSIS OF BILL AS REPORTED

TITLE I—INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES

Sections 101-103

Section 101(a) lists the departments and agencies for whose intelligence and intelligence-related activities the bill authorizes appropriations for fiscal year 1989.

Section 101(b) provides that three of the six GUARDRAIL RC-12K aircraft and senior suites authorized to be appropriated by the bill in fiscal year 1989 may not be procured until the Committee on Armed Services and the Permanent Select Committee on Intelligence receive a report from the Department of the Army setting forth in detail the long-range plans and budgetary commitments to meet future requirements for tactical airborne reconnaissance in support of United States Army corps. In particular, this report should address the contribution that remotely piloted vehicles or other follow-on reconnaissance assets can make to tactical airborne reconnaissance at the corps level.

Section 101(c) pertains to the foreign counterintelligence activities of the Federal Bureau of Investigation. Paragraph (c)(1) provides that the funds authorized to be appropriated for the FBI's foreign counterintelligence activities may be used only for such activities and not for any other Bureau activities. Historically, the Bureau, which assigns a high priority to its foreign counterintelligence activities, has underspent funds authorized for this purpose. The committee wishes to ensure that foreign counterintelligence activities receive the level of effort requested by the President and authorized by Congress.

Paragraph (c)(2) requires that an amount of funds specified in the Schedule of Authorizations for the foreign counterintelligence

[page 5]

activities of the FBI be obligated for the development and procurement of needed counterintelligence technical equipment.

Paragraph (c)(3) provides that \$15,100,000 of the funds authorized to be appropriated to the Defense Intelligence Agency in fiscal year 1989 shall be transferred to the FBI for its foreign counterintelligence activities as requested in the President's fiscal year 1989 budget request.

Section 101(d) concerns authority provided by Section 803 of the Intelligence Authorization Act for Fiscal Year 1986 (5 U.S.C. 9101). Section 803 permits the Department of Defense, the Office of Personnel Management and the Central Intelligence Agency (and, by later amendment, the Federal Bureau of Investigation) to obtain state and local criminal history record information for use in security checks. Section 803 required these Federal agencies to enter into agreements to indemnify states or localities for claims against them arising from the disclosure or use of the criminal history record information obtained by means of this statute. The requirement for such indemnification agreements expires three years after enactment of the statute. Section 803(b) of the 1986 Act, however, required a report from the Department of Justice (in consultation with the affected Federal agencies) concerning the effect of requir-

4

ing such ind  
in December  
Failure to pr  
which was to  
tion requirem  
demnification  
Accordingly,  
demnification  
the report re  
Section 102  
mendations w  
ated and appl  
gence and int  
in a classified  
zations is inc  
the schedule  
Section 102  
personnel of  
fense Mappin  
for purposes o  
sonnel should  
tion 601 of th  
Section 601 re  
ductions in bo  
of the Depart  
nel as of Septe  
DMA only fro  
fense agencies  
share of perso  
tee achieved t  
quarters pers  
headquarters p

The committe  
the increase in  
lated products  
These increase  
the Congress a  
sonnel at both  
support for mo  
with it an obl  
tasks without r  
committee did  
management w  
The committe  
respect to fisca  
reductions in D  
ence, the comm  
guage urging th  
DIA and DMA.  
although he has  
to make reducti  
dress this large

INTELLIGENCE AUTHORIZATION ACT  
P.L. 100-453

ing such indemnification agreements. That report, which was due in December, 1987, has never been submitted by the Department. Failure to provide this report has frustrated the intent of Congress, which was to have a full year before expiration of the indemnification requirement to review the report and consider whether the indemnification requirement should continue, lapse, or be modified. Accordingly, Section 101(d) extends the expiration date for the indemnification requirement until one year after the submission of the report required by Section 803(b) of the fiscal year 1986 Act.

Section 102(a) makes clear that details of the committee's recommendations with respect to the amounts authorized to be appropriated and applicable personnel ceilings in fiscal year 1989 for intelligence and intelligence-related activities under title I are contained in a classified schedule of authorizations. The schedule of authorizations is incorporated into the bill by this section. The details of the schedule are explained in the classified annex to this report.

Section 102(b) provides that the numbers of non-headquarters personnel of the Defense Intelligence Agency (DIA) and the Defense Mapping Agency (DMA), shall not be reduced, nor counted for purposes of determining how many Department of Defense personnel should be reduced, in accordance with the provisions of Section 601 of the Department of Defense Reorganization Act of 1986. Section 601 requires the Secretary of Defense to make certain reductions in both the headquarters and non-headquarters personnel of the Department of Defense based on the number of such personnel as of September 30, 1986. Section 102(b) would exempt DIA and DMA only from the non-headquarters cuts while holding other defense agencies and field activities harmless from an increased share of personnel reductions required by Section 601. The committee achieved this result by reducing the base number of non-headquarters personnel against which Section 601 reductions of non-headquarters personnel must be taken.

[page 6]

The committee felt that Section 102(b) was necessary in light of the increase in the number of requirements for intelligence and related products levied upon both DIA and DMA in recent years. These increased demands have been either supported or created by the Congress and have led to the authorization of additional personnel at both agencies. It was the committee's reasoning that its support for more and better analysis and mapping products carried with it an obligation to provide the personnel to perform these tasks without regard to overall reductions in DoD manpower. The committee did feel, however, that some reduction in headquarters management was acceptable for both agencies.

The committee initially recommended an identical provision with respect to fiscal year 1988, the first two fiscal years in which the reductions in DoD manpower are required to be made. In conference, the committee agreed to nonbinding sense of Congress language urging the Secretary of Defense to make reductions at DIA and DMA. The Secretary eventually did order such reductions, although he has also requested repeal of the statutory requirement to make reductions in DoD manpower. The committee does not address this larger request but agrees that, with respect to Defense

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(I)

agencies with intelligence and related missions, it would be inconsistent with the high priority placed by the committee and the executive branch on intelligence support to military forces to require reductions in DIA and DMA at a time when the committee is recommending an increase in personnel, as it has over the past several years.

Section 103 permits the Director of Central Intelligence to authorize the personnel strength of any intelligence element to exceed the fiscal year 1989 authorized personnel levels by no more than 2 percent if he determines that doing so is necessary for the performance of important intelligence functions. The Director must notify the two intelligence committees promptly of any exercise of authority under the section.

The committee emphasizes that the authority conveyed by Section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provide the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The committee does not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the schedule of authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill.

*Section 104*

Section 104 provides that funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1988 to provide funds, materiel or other assistance to the Nicaraguan resistance to support military or paramilitary operations in Nicaragua only as authorized pursuant to Section 101 and

[page 7]

as specified in the Classified Schedule of Authorizations referred to in Section 102, Section 502 of the National Security Act of 1947, or any provision of law specifically providing such funds, materiel or assistance, such as is contained in H.J. Res. 523 of the 100th Congress, a joint resolution providing assistance and support for peace, democracy and reconciliation in Central America (Public Law 100-276).

Section 104 continues in force the provisions of Section 104 of the Intelligence Authorization Act for Fiscal Year 1988 (Public Law 100-178), except that it applies to all agencies or entities of the United States, not just those involved in intelligence activities, as the Fiscal Year 1988 Act did. Its principal effect is to ensure that only funds specifically authorized by the bill or those specifically authorized by separate legislation approved by the House and Senate may be provided to assist the military or paramilitary operations of the Nicaraguan resistance. Section 104, in effect, preserves the position that any military or paramilitary assistance provided to the Nicaraguan resistance must be openly requested and approved by the Congress.

2474

b

INTELLIGENCE AUTHORIZATION ACT  
P.L. 100-453

Section 104 would prohibit during fiscal year 1989, as does Section 104 of the Fiscal Year 1988 Act during fiscal year 1988, the use of funds from the CIA's Reserve for Contingencies for assistance to the military or paramilitary operations of the Nicaraguan resistance except to the extent approved by reprogramming or transfer approval action submitted to the appropriate committees of the Congress, which would include the intelligence and appropriations committees of the House and Senate. Of course, funds from any other accounts appropriated to the CIA, the Department of Defense, or any other agency or entity could not be transferred to assist the military or paramilitary operations of the Nicaraguan resistance without reprogramming or transfer approval by the same committees.

This result stems in particular from the application of Section 502 of the National Security Act of 1947 which provides that funds may not be spent for an intelligence activity unless they have been specifically authorized and, in the case of the Reserve, provides that funds may be provided for a particular intelligence activity if the Director of Central Intelligence has given appropriate notice to the intelligence committees of the House and Senate. As noted above, funds authorized during fiscal year 1989 for the CIA's Reserve for Contingencies are not available for support to the military or paramilitary activities of the Nicaraguan resistance. (Funds requested for the Reserve would ordinarily be available to fund any intelligence activity, other than one for which Congress had denied funds. The committee has denied use of the Reserve in fiscal year 1989 to assist the military or paramilitary operations of the Nicaraguan resistance.)

Further, since assistance to the military or paramilitary operations of the Nicaraguan resistance is a matter of significant Congressional interest, any transfer of funds from other accounts for this purpose would require a reprogramming or transfer approval action. Finally, Subsection 502(b) of the National Security Act of 1947 does not permit the funding of intelligence activities for which funds have been denied by Congress. Even if substantial changes in

[page 8]

such proposed activities occur, the only avenue to secure reconsideration of such denial is through a reprogramming or transfer approval submitted to the appropriate committees.

As under current law, the provision of intelligence information and advice to the Nicaraguan resistance is authorized by Section 104. These activities may continue as provided for in accordance with the joint explanatory statement of managers to accompany the conference report on H.R. 2419 of the 99th Congress (H. Rept. 99-373, pages 14 through 17). No other support to the military or paramilitary operations of the Nicaraguan resistance is authorized by the bill.

The committee anticipates that, if both Houses approve legislation providing additional assistance to the Nicaraguan resistance, regardless of whether or not such legislation is approved prior to or subsequent to enactment of the Fiscal Year 1989 Intelligence Authorization Act, the terms and conditions of such legislation will control the nature and extent of U.S. assistance to the military or paramilitary operations of the Nicaraguan resistance to the extent

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(I)

they are inconsistent with Section 104. If there is no such legislation or if such legislation were silent on matters covered by Section 104, then the provisions and conditions of Section 104 would control on matters involving any assistance to the military or paramilitary operations of the Nicaraguan resistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Sections 201-203

Section 201 authorizes the appropriation of \$23,745,000 for fiscal year 1989 for the Intelligence Community Staff (IC Staff), which provides the Director of Central Intelligence with staff assistance to carry out his intelligence community responsibilities. The IC Staff supports the Director of Central Intelligence in the execution of his responsibilities to develop, review, and approve the National Foreign Intelligence Program budget, to evaluate the performance of foreign intelligence activities, and to develop issues, goals, and other required guidance for the intelligence community.

Sections 202 and 203 provide certain administrative authorities for the Intelligence Community Staff.

Section 202(a) authorizes 244 full-time personnel for the staff. The Intelligence Community Staff is composed of a permanent cadre, detailed community personnel, and contract hires. The purpose of section 202(b) is to authorize this method of staffing and to require that detailed employees represent all appropriate elements of the Government, including those engaged in intelligence-related activities. Section 202(c) requires that personnel be detailed on a reimbursable basis except for temporary assignments. The Staff's authorized size, in the opinion of the committee, is sufficient for the duties which the Staff performs. This provision is intended to insure that its ranks are not swelled by detailees, the personnel costs for whom are not reimbursed to their parent agency.

Section 203 provides the Director of Central Intelligence with authority to manage the activities and to pay the personnel of the Intelligence Community Staff because the Staff is not otherwise authorized by law. However, it is the committee's intent that in the

[page 9]

case of detailed personnel, the Director's authority to discharge personnel shall only extend to discharging detailed personnel from service at the Intelligence Community Staff and not from Federal employment or military service.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
DISABILITY SYSTEM

Section 301

Section 301 authorizes appropriations for the Central Intelligence Agency Retirement and Disability System (CIARDS) in the amount of \$144,500,000 for fiscal year 1989. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (Public Law 88-643) authorized the establishment of CIARDS for a limited number of Agency employees and authorized the establishment and maintenance of a fund from which benefits would be paid to qualified beneficiaries.

8



INTELLIGENCE AUTHORIZATION ACT  
P.L. 100-453

The requested CIARDS funds will finance:

- (1) Interest on the unfunded liability;
- (2) The cost of annuities attributable to credit allowed for military service;
- (3) Normal cost benefits not met by employee and employer contributions;
- (4) The increase in unfunded liability resulting from liberalized benefits and Federal pay raises.

The benefits structure of CIARDS is essentially the same as for the Civil Service Retirement System with only minor exceptions. The exceptions are: (a) annuities are based upon a straight 2 percent of high 3-year average salary for each year of service, not exceeding 35; (b) under stipulated conditions a participant may retire with the consent of the Director, or at his direction be retired, at age 50 with 20 years service, or a participant with 25 years of service may be retired by the Director regardless of age; and (c) retirement is mandatory at age 65 for personnel receiving compensation at the rate of GS-18 or above, and at age 60 for personnel receiving compensation at a rate less than GS-18, except that the Director may, in the public interest, extend service up to 5 years.

Annuities to beneficiaries are provided exclusively from the CIARDS fund maintained through: (a) contributions, currently at the rate of 7 percent, deducted from basic salaries of participants designated by the Director; (b) matching Agency contributions from the appropriation from which salaries are paid, based on the actual rate of contributions received from participants; (c) transfers from the Civil Service Retirement and Disability Fund representing employee and matching employer contributions for service of Agency employees prior to the date of their participation in CIARDS, and contributions for service of integrated Agency employees included in CIARDS following termination of integrated status; (d) income investments in U.S. Government securities; and (e) beginning in 1977, direct appropriations consistent with the provisions of Public Law 94-552.

[page 10]

TITLE IV—GENERAL PROVISIONS

Section 401

Section 401 provides that the authorization of appropriations by the bill shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

Section 402

Section 402 provides that appropriations authorized by the bill for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

Section 403

Section 403 requires the Director of Central Intelligence and the Secretary of Defense to submit 90 days after enactment a report

STAT

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(I)

setting forth an analysis of the representation of each minority group (termed equal employment opportunity in this section) at CIA and NSA, respectively, and proposing a plan for each agency that would address any underrepresentation of any such group by September 30, 1991. Both the Director and the Secretary are required to provide interim reports on February 1, 1989, 1990, and 1991 for their respective agencies detailing the efforts they have made, and the progress that has been realized by each agency in achieving the objectives of each plan. These reports must address, among other things, the number of applications from minority groups, and the hiring, the promotion and the training of members of such groups for each agency. Section 403(c) lists those minority groups who qualify as equal employment opportunity groups.

The committee's purpose in adopting this amendment was to give added emphasis to minority programs at both CIA and NSA. The committee regularly receives reports on such efforts and has noted some improvements in recent years. However, improvements in minority representation have occurred principally in the support field, while minority representation in professional fields lags behind. The committee was instrumental in beginning minority recruitment programs for critical skills personnel. Referred to as undergraduate training programs (UTP), these programs were designed to assist CIA and NSA in recruiting minorities for mainstream professional positions. While these programs have been implemented at both agencies, the committee also feels that much more could be done and bases this in large part on the testimony of the Director of Central Intelligence and the Director of the National Security Agency in appearances before the committee this year.

The committee wishes to emphasize that, in preparing the plans called for by Section 403, both the Director of Central Intelligence and the Director of the National Security Agency in appearances before the committee this year.

The committee wishes to emphasize that, in preparing the plans called for by Section 403, both the Director of Central Intelligence and the Secretary of Defense should construe the terms "representation" and "underrepresentation" as encompassing not only the

[page 11]

numbers of members of minority groups present in the total work force of an agency but also the grade or payband distribution of minority group members in both professional and support areas, as well as the projected career development of such groups.

The committee's purpose in requiring an EEO plan for each agency is not to set inflexible goals or hiring quotas, but rather to identify weaknesses in minority representation and participation, strengthen existing programs to acquire better minority representation and focus new resources and higher priority attention across the entire equal employment opportunity spectrum. The committee does not intend that numerically insignificant minority representation nationwide should require significant EEO programmatic efforts at either agency. However, the committee cautions that the essence of a successful equal employment opportunity approach is to predicate efforts at recruiting, hiring, promotion, and training of minority group members on the principle that the diversity, experi-

2478

10

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

ence and often unique skills they bring to any workforce are a positive benefit. Such benefits should be understood, emphasized, and sought.

## TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

*Section 501*

Section 501 would grant the Director of Central Intelligence the authority during fiscal year 1989 to grant monetary or other relief, including reinstatement and promotion, as the Director considers appropriate, to former employees whose career with the Agency had been adversely affected as a result of allegations concerning their loyalty to the United States. This authority mirrors similar authority provided in the Fiscal Year 1981 Intelligence Authorization Act. It is intended to address the peculiar circumstances of at least one former employee whose forced retirement from the Agency at a time of heightened concerns about loyalty to the United States has since been shown to have been unjustified. The authority provided by Section 501 is not reviewable in any court or other forum and is effective only to the extent that appropriated funds are available for the purpose of making payments to former employees. Finally, any exercise of the authority by the Director of Central Intelligence must be the subject of prior notification to the intelligence committees of the House and Senate.

## TITLE VI—FBI COUNTERINTELLIGENCE AUTHORITIES

*Section 601*

Section 601 would establish a five-year demonstration project in the FBI's New York Field Division in order to ascertain the effects on recruitment and retention of personnel and on field operations, including counterintelligence operations, of lump sum and periodic payments to certain FBI personnel at that office. Such payments are intended to offset the high cost of living in the New York metropolitan area. Section 601 requires that the demonstration project be conducted by the FBI in conjunction with the Office of Personnel Management and include the provision of lump-sum payments to personnel assigned to the New York Field Division from another

[page 12]

geographic area who agree to serve no less than a three-year tour in the New York office, as well as periodic payment to New York Office employees who are subject to a mobility requirement, i.e. essentially special agents and some specialized support personnel.

Section 601 is a joint recommendation by the Office of Personnel Management and the Federal Bureau of Investigation contained within their "Report on Recruitment, Retention and Operational Problems Facing the New York Office of the Federal Bureau of Investigation Caused by the High Cost of Living, and a Plan for Remedies," which was submitted to Congress pursuant to Section 502 of the Intelligence Authorization Act for Fiscal Year 1988. Congress had earlier proposed a demonstration project for the New York Field Division of the FBI but, at the Administration's request, deferred this suggestion until the submission of the joint report.

2479

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(I)

The Intelligence Committees have been advised for some time by the FBI that due to the high costs of living in the New York area, the FBI has a difficult time recruiting agents for such assignments, which impose a considerable financial burden on agents and their families under the current pay structure. Agents who are assigned to the New York office routinely attempt to leave at the earliest opportunity.

From the standpoint of the effectiveness of the FBI's Foreign Counterintelligence Program, the New York Field Division is critically important. To have employees assigned to this division against their wishes, at a considerable financial sacrifice, and to have them take the first opportunity to leave for the same reason, inevitably undermines the effectiveness of the New York office in terms of its counterintelligence responsibilities.

What distinguishes the circumstances of FBI employees in the New York area is that many FBI employees are transferred in and out of the New York area as a routine matter. The great majority are not recruited in New York and undergo significant hardship in terms of housing, commuting and overall living expenses by transferring into the New York metropolitan area. Most other Federal employees in the New York area are not required as a condition of employment to move to the New York area because they were already living in the area when they joined the Federal service. Further, the FBI, especially in its counterintelligence activities, possesses personnel requirements which differ from other Federal agencies and which impose burdens in excess of those imposed by other Federal employment in the New York area.

The committee agreed to the Administration's request for a demonstration project at the New York FBI office based on the description of Section 601 provided in the above-referenced report and specifically, the following excerpt from the report's recommendation section:

As envisioned by both agencies, a two-part allowance would be paid to employees transferred to New York under the mandatory transfer program. A lump sum would be paid at the time the employee is actually transferred to New York, upon the employee's written agree-

[page 13]

ment to a specified term of service in New York.<sup>1</sup> For all employees in New York subject to a mobility requirement, an additional allowance would be paid, on a biweekly basis through the payroll system. (The amounts of these allowances would have to be determined.) These allowances would not become part of the employee's basic pay and would cease when the employee is reassigned out of New York.

The funds available to pay for the demonstration project must come from funds appropriated to the FBI that are available for that purpose, or funds reprogrammed for the demonstration project. The committee expects to be kept fully informed of actual rates for the allowances and lump-sum payments to be made under the program and any other compensatory elements of the program.

INTELLIGENCE AUTHORIZATION ACT  
P.L. 100-453

TITLE VII—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

*Section 701*

Section 701 would revise Section 421 of Title 10, United States Code, to clarify the purposes for which both appropriated and non-appropriated funds may be used in the context of arrangements with foreign countries for cryptologic support. Generally, appropriated funds may be used only as requested or otherwise provided by Congress. Nonappropriated funds may not be used for a purpose for which Congress has previously denied funds and may not be used to acquire items or services which the United States could have purchased with the use of appropriated funds. This latter limitation is not intended to prevent the sharing of costs of cooperative arrangements. It is aimed principally at preventing the augmentation of appropriations available to the Department of Defense for these purposes by soliciting or otherwise arranging gifts of other than nominal or de minimis amounts of equipment or services from other foreign governments. All uses of all funds expended pursuant to new Section 421 must be reported to the intelligence committees of the House and Senate pursuant to regulations or understandings reached between the intelligence committees and the Department of Defense. The committee is in the course of expanding and revising these understandings and procedures.

*Section 702*

Section 702 would create a new Assistant Secretary of Defense for Intelligence (ASD(I)) whose responsibilities would include the overall supervision of all intelligence and intelligence-related activities of the Department of Defense. This new Assistant Secretary would replace the currently specified Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASD(C<sup>3</sup>I)) and would be assigned the intelligence responsibilities of the current ASD(C<sup>3</sup>I) as well as those currently assigned to the Deputy Under Secretary of Defense for Policy. Specifically, the committee believes all intelligence functions and responsibilities, including oversight, policy formulation, planning, programming,

<sup>1</sup> The terms of the service contract could be waived or amended upon a management-directed transfer out of New York.

[page 14]

and budgeting, and those functions and responsibilities traditionally grouped together with intelligence activities, such as foreign counterintelligence and security programs and support to covert action, should be consolidated under the ASD(I). It is also the intention of the committee to streamline policymaking on intelligence and intelligence-related matters within the Department by providing that the new Assistant Secretary would report directly to the Secretary of Defense. However, the committee wishes to emphasize that creation of this new Assistant Secretary position would not affect the responsibilities of the Under Secretary of Defense for Acquisition to coordinate the acquisition of tactical intelligence and related systems.

For more than ten years, the committee has attempted to strengthen the management of intelligence and related activities

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(I)

within the Department of Defense. Intelligence is widely recognized as a unique area within DoD, not only because of its special security constraints and extensive cross service and inter-agency implications but because intelligence plays such a decisive role in supporting military operations and in the defense policy, planning and weapon acquisition processes. Despite this recognition, however, the Department decentralized management of intelligence matters in 1978. Subsequently, the committee has repeatedly been presented with evidence of ineffective staff support up to the Secretary, staff supervision and guidance downward to the Defense components, and inadequate representation of Defense interests in the intelligence community. Even basic mechanisms for ensuring that timely and accurate intelligence is made available to support military operations and decision making appear to be lacking.

From 1978 to 1984, the committee repeatedly expressed concern about the widespread division of responsibilities for intelligence matters within the Office of the Secretary of Defense. Although some improvement was noted with the establishment of an ASD(C<sup>3</sup>I) in late 1984, responsibilities for DoD intelligence matters remained fragmented. Further, in its examination of DoD intelligence management since 1984, the committee has observed ample evidence that combining the management of C<sup>3</sup> and Intelligence functions generally has not worked to the benefit of either function and to the extent that there has been success, it was attributable to the personality and background of the individual appointed as the ASD(C<sup>3</sup>I).

The committee's continued concern regarding the need to strengthen management of DoD intelligence was reinforced by the reports required to be submitted by the Goldwater-Nichols DoD Reorganization Act of 1986 which were received late last year. In two reports published by the Office of the Secretary of Defense staff and in the report of the Chairman of the Joint Chiefs of Staff, recommendations were advanced concerning the separation of C<sup>3</sup> and Intelligence and establishing an Assistant Secretary of Defense for Intelligence to centrally coordinate and focus on U.S. intelligence issues.

From the committee's perspective, the need for this new position is best exemplified by the difficulties the committee has experienced in the past in identifying which defense official to look to in seeking understanding of the intelligence needs of the Department,

[page 15]

as well as the reasons for various apparent intelligence shortfalls in supporting DoD operations. The committee notes that it is particularly convinced of the need to bring within the cognizance of the defense official responsible for foreign intelligence matters the responsibility for counterintelligence activities that tie so directly and critically into other Defense intelligence activities.

In an effort to minimize the impact of the creation of this new, consolidated intelligence portfolio within the Department of Defense, Section 702 creates an additional underdesignated Assistant Secretary of Defense so as to permit the Secretary to designate, if he wishes, a new Assistant Secretary to retain the portfolio of Command, Control, and Communications held today by the assistant

Secretary  
Intelligence

Section 7

Section  
tion 160  
fense Int  
about its  
closely t  
current a

Last y  
tion Bill  
signals i  
The com  
Agency a  
been res  
bility ba  
and the  
requeste  
Control,  
the resol  
and if th  
National  
in future  
ment an  
and expl  
solved.

The c  
questions  
that the  
tions in  
solved, t  
SIGINT  
tional Gu  
Section  
1987 dire  
ate train  
tion 506  
set up a

the prov  
UTP's w  
ployees a  
demic sk  
i.e. math  
gauges.  
The c  
would be  
employe  
missions

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

Secretary of Defense for Command, Control, Communications and Intelligence.

*Section 703*

Section 703 makes technical revisions to, and redesignates, Section 1607 of Title 10, United States Code, which permits the Defense Intelligence Agency to withhold from disclosure information about its personnel and organization, in order to conform it more closely to the format of Title 10. No substantive revision of DIA's current authority is intended.

## ADDITIONAL ISSUES

Last year in the Classified Annex to the Intelligence Authorization Bill, the committee commented on the proposal to provide a signals intelligence (SIGINT) capability to National Guard units. The committee noted that a dispute between the National Security Agency and the Army concerning the control of the assets had not been resolved. The committee questioned the need for such a capability based on Army Active and Reserve Component capabilities and the known equipment shortfalls in the units. The committee requested that the Assistant Secretary of Defense for Command, Control, Communications and Intelligence inform the committee on the resolution of the differences between the Army and the NSA, and if the Army was to proceed with a SIGINT capability for the National Guard, the committee would expect detailed justification in future budget requests for the program as well as the development and implementation of procedures to control the collection and exploitation of SIGINT. To date, the issue has yet to be resolved.

The committee believes that serious legal and constitutional questions may be posed by National Guard SIGINT operations and that the Secretary of Defense should carefully review these questions in resolving the issue. Until such time that the issue is resolved, the committee cannot recommend authorization of tactical SIGINT assets for the National Guard and no authorization for National Guard SIGINT operations is contained in H.R. 4387.

Section 505 of the Intelligence Authorization Act for Fiscal Year 1987 directed the Secretary of Defense to establish an undergraduate training program (UTP) at the National Security Agency. Section 506 of the Act directed the Director of Central Intelligence to set up a UTP at the Central Intelligence Agency consistent with

[page 16]

the provisions of Section 505. The committee's intent in creating UTP's was to assist CIA and NSA in attracting new minority employees and to facilitate the recruitment of students possessing academic skills in certain disciplines critical to intelligence functions, i.e. mathematics, engineering, computer science and foreign languages.

The committee hoped that through the UTP's CIA and NSA would be able to gain early access to a pool of talented potential employees whose skills are so necessary for the success of future missions of the two agencies.

2483

15

STAT

~~LEGISLATIVE HISTORY~~  
HOUSE REPORT NO. 100-591(I)

In authorizing the UTP's, the committee expected that the programs would be consistent with each other. Specifically, the committee stated in its report accompanying the Fiscal Year 1987 Intelligence Authorization Act that the programs should provide salaries and certain expenses incident to employee assignments including, but not limited to matriculation fees, tuition, library and laboratory fees and the purchase or rental of books, materials and supplies.

The committee did not list payment of room and board to UTP participants, a feature incorporated by CIA. Such payments create a broad discrepancy in the two programs. The committee has expected such expenses would be a responsibility of the individual.

The committee also notes a disparity in the formula used by CIA and NSA to calculate a student's obligation to the individual agency upon completion of his or her undergraduate studies. It was and remains the committee's intent that for each year or partial year of education provided by NSA and CIA, the student would be obligated to serve in the employing agency for one and a half years. For a traditional four-year undergraduate program, assuming the school year is nine months, the committee would expect a student's obligation to compute to 54 months of required service. The committee views CIA's practice of subtracting months of summer employment from the total number of months spent in school to be an inappropriate interpretation.

The committee views these differences with concern and urges CIA to reconcile the differences in its program with NSA so as to achieve uniformity in the administration of both individual UTP's.

The committee recognizes and applauds the efforts of both agencies in recruiting students for the UTP's in such a short time frame. However, it is the belief of the committee that not enough effort is being put into recruiting students in high schools. The result of concentrating UTP efforts at colleges is that many qualified high school candidates who for financial reasons do not apply for admission to colleges are excluded from any possible consideration. These are the very students the UTP's were designed to attract.

The committee urges new efforts at focusing UTP's on high school candidates.

~~COMMITTEE POSITION~~

On April 14, 1988, the Permanent Select Committee on Intelligence, a quorum being present, approved the bill and by unanimous voice vote ordered it favorably reported.

[page 17]

OVERSIGHT FINDINGS

With respect to clause 2(1)(3)(A) of Rule XI of the House of Representatives, the committee has held extensive hearings regarding the nature and conduct of the intelligence and intelligence-related activities of the U.S. Government in considering this legislation. This review is outlined under the section of this report describing the scope of the committee review. A wide range of recommendations

16



INTELLIGENCE AUTHORIZATION ACT  
P.L. 100-453

tions regarding intelligence programs and their management has been included within the classified annex of this report.

FISCAL YEAR COST PROJECTIONS

With respect to clause 2(1)(3)(B) of Rule XI of the House of Representatives and Section 308(a) of the Congressional Budget Act of 1974, this legislation does not provide new budget authority or tax expenditures. The committee has attempted pursuant to clause 7(a)(1) of Rule XIII of the Rules of the House of Representatives to ascertain the outlays which will occur in fiscal year 1988 and the 5 years following if these amounts are appropriated. These estimates are contained in the classified annex and are in accordance with those of the executive branch.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to clause 2(1)(3)(C) of Rule XI of the House of Representatives, the committee has received no report from the Congressional Budget Office.

RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

With respect to clause 2(1)(3)(D) of Rule XI of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to the subject of this bill.

INFLATION IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the House of Representatives, the committee has attempted to determine the inflationary impact of the bill.

The committee finds no adequate method to identify the inflationary impact of the present legislation. Further, the bill does not provide specific budget authority but rather authorizations for appropriation. Hence, any inflationary impact would depend on the amounts actually appropriated and the strain that short supplies of materials, production capacity or other economic resources would place on industrial capacity.

\* \* \* \* \*

9  
18

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(II)

HOUSE REPORT NO. 100-591(II)

[page 1]

The Committee on Armed Services, to whom was referred the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 4387 would authorize appropriations and address related matters for fiscal year 1989 for certain Department of Defense intelligence-related activities within the jurisdiction shared by the Committee on Armed Services and the Permanent Select Committee on Intelligence pursuant to the provisions of clause 1(c) of rule X and clause 2(b) of rule XLVIII of the Rules of the House of Representatives and to section 114 of title 10, United States Code.

SEQUENTIAL REFERRAL

H.R. 4387 was originally referred to the Permanent Select Committee on Intelligence. Because jurisdiction over Department of Defense intelligence-related activities is shared between the Committee on Armed Services and the Permanent Select Committee on Intelligence, pursuant to clause 1(c) of rule X and clause 2(b) of rule

[page 2]

XLVIII of the Rules of the House of Representatives, the bill was sequentially referred on April 29, 1988, for a period ending not later than May 16, 1988, for consideration of those areas within the jurisdiction of the Committee on Armed Services.

BACKGROUND AND DISCUSSION

The Committee exercised its oversight jurisdiction, as shared with the Permanent Select Committee on Intelligence, with regard to Department of Defense intelligence-related matters falling within the authorizing responsibility of the committee under section 114 of title 10, United States Code. In anticipation of the sequential referral of H.R. 4387, the committee reflected its agreement with the Permanent Select Committee on Intelligence on those intelligence-related matters in its report on H.R. 4264, the National Defense Authorization Act for fiscal year 1989 (reported April 5, 1988). Because the specific figures in the Department of Defense intelligence-related activities accounts are classified, they are included only in the classified annex of the report on H.R. 4387 prepared by the Permanent Select Committee on Intelligence.

DEPARTMENTAL POSITION

The programs approved were a part of the overall program submitted by the Department of Defense for authorization of appropriations for fiscal year 1989.

INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

COMMITTEE POSITION

The report of the Committee on Armed Services on H.R. 4264, the National Defense Authorization Act for fiscal year 1989, reflects the agreement of the committee on those matters contained in H.R. 4387 that fall within its jurisdiction. On May 12, 1988, a quorum being present, the committee agreed to report favorably on H.R. 4387 without amendment and with regard to matters within its jurisdiction only, by a rollcall vote of 22 to 12, with two answering "present."

FISCAL DATA

*Fiscal year cost projections*

The committee adopts the comments of the select committee in part 1 of the report on H.R. 4387 as they relate to matters within the jurisdiction of the Committee on Armed Services on cost projections.

*Congressional Budget Office estimate*

In compliance with clause 2(1)4 of rule XI of the Rules of the House of Representatives, the committee adopts the position of the Permanent Select Committee on Intelligence in part 1 of the report on H.R. 4387 as it relates to matters within the jurisdiction of the Committee on Armed Services.

*Inflation Impact statement*

In compliance with clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee adopts the position of the

[page 3]

Permanent Select Committee on Intelligence in part 1 of the report on H.R. 4387 as it relates to matters within the jurisdiction of the Committee on Armed Services.

OVERSIGHT FINDINGS

With reference to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

In compliance with clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee reports that it reviewed carefully the various aspects of intelligence-related activities of the Department of Defense Authorization Act of fiscal year 1989. That review was equally pertinent to those same programs reflected in the classified annex of the report on H.R. 4387 prepared by the Permanent Select Committee on Intelligence. That review constitutes but one element of the committee's continuing examination of the national defense and intelligence establishments as a major segment of its oversight responsibilities with regard to national security.

\* \* \* \* \*

19

LEGISLATIVE HISTORY  
HOUSE REPORT NO. 100-591(II)

SUMMARY

*Background and purpose*

H.R. 4387 would authorize appropriations and address related matters for fiscal year 1989 for certain Department of Defense intelligence-related activities within the jurisdiction shared by the Committee on Armed Services and the Permanent Select Committee on Intelligence pursuant to the provisions of clause 1(c) or rule X and clause 2(b) or rule XLVIII of the Rules of the House of Representatives.

Because the matters acted on by the committee were confined basically to classified items in the Department of Defense intelligence-related activities category, the committee recommendations are reflected in the classified annex to the report on H.R. 4387 prepared by the Permanent Select Committee on Intelligence. The committee and the select committee reached an agreement on matters that were jointly considered.

*Fiscal data*

The estimate of costs for fiscal year 1989 and the following years as they related to the specific recommendations for the Department of Defense intelligence-related activities are included in the classified annex to the report on H.R. 4387 prepared by the Permanent Select Committee on Intelligence.

*Departmental position*

The programs approved were a part of the overall program submitted by the Department of Defense for authorization of appropriations for fiscal year 1989.

[page 4]

*Committee position*

On May 12, 1988, the Committee on Armed Services agreed, by rollcall vote of 22 to 12, with 2 voting "present," to report H.R. 4387 with regard to those matters that fall within the jurisdiction of the Committee on Armed Services.

[page 5]

DISSENTING VIEWS OF WILLIAM L. DICKINSON

I along with the other Republican members of the committee have voted against this bill primarily over extreme concern for lack of adequate representation from the Armed Services Committee on the Permanent Select Committee on Intelligence.

Approximately 97 percent of the funds identified in the intelligence authorization bill are contained in the Department of Defense budget and 80 percent of the intelligence funded programs are carried out by the Department of Defense. In the past, the Committee on Armed Services has had three members on the Select Committee, but at present there is only one. Clearly, this is not adequate representation to allow the Armed Services Committee to properly perform its joint responsibility with the Select Committee. In areas such as the Tactical Intelligence and Related

INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

tivities (TIARA), the Committee on Armed Services has essentially day-to-day responsibility in partnership with the Select Committee to include a sizable portion of the Strategic Defense Initiative program. The area of arms control verification and in particular in light of the ongoing INF Treaty activity creates a situation that is of particular concern. The Committee on Armed Services has special oversight functions with respect to international arms control and disarmament, but the Select Committee has the primary control in authorizing and reviewing defense programs that have to do with collecting intelligence data associated with verification of arms control agreements.

There has been a long history of cooperation between the Armed Services Committee and the Select Committee on Intelligence due primarily to adequate representation by the Armed Services Committee on the Select Committee. The current situation has the potential for undoing this relationship and it is the reason that I and the other minority members cannot agree to this bill. We are in general agreement with the content of the bill as it relates to our joint jurisdiction.

WM. L. DICKINSON.

HOUSE CONFERENCE REPORT NO. 100-879

[page 13]

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

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

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

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement

~~SECRET~~  
21

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DOD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate. The special conference group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act, 1989. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation category of Military Pay.

[page 14]

TITLE I—INTELLIGENCE ACTIVITIES

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1989 and establish personnel ceiling applicable to such activities.

Subsections 101 (a) and (b) are identical to subsections 101 (a) and (b) of the House bill.

Subsection 101(c) is identical to subsection 101(c)(3) of the House bill except that the decision to transfer \$15.1 million from the Defense Intelligence Agency to the Federal Bureau of Investigation is left to the Secretary of Defense. The conferees expect the Secretary to make this transfer if the funds in question are appropriated to the Department of Defense. If these funds are appropriated directly to the FBI, he need not do so.

Subsection 101(d) is identical to subsection 101(d) of the House bill, except that the expiration date of Section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) is extended until December 31, 1989.

Section 803 permits the Department of Defense, the Office of Personnel Management and the Central Intelligence Agency (and, by later amendment, the Federal Bureau of Investigation) to obtain state and local criminal history record information for use in security checks. Section 803 required these Federal agencies to enter into agreements to indemnify states or localities for claims against them arising from the disclosure or use of the criminal history record information obtained by means of this statute. The requirement for such indemnification agreements expires three years after enactment of the statute. Section 803(b) of the 1986 Act, however, required a report from the Department of Justice (in consultation

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

with the affected Federal agencies) concerning the effect or requiring such indemnification agreements. That report, which was due in December, 1987, was not submitted by the Department until May 24, 1988. Failure to provide this report has frustrated the plan of Congress, which was to have a full year before expiration of the indemnification requirement to review the report and consider whether the indemnification requirement should continue, lapse, or be modified.

Section 101(d) of the House bill extended the expiration date for the indemnification requirement until one year after the submission of the required report. The conferees adopted the House provision, with an amendment changing the expiration date until December 31, 1989. The additional time will permit the underlying issues to be fully addressed during consideration of the FY 90 intelligence authorization bill.

The conferees note that the regulations issued to implement section 803 of the FY 86 Intelligence Authorization Act and the indemnification agreement drawn up by the Department of Justice appear to contravene the intent of section 803. As a result, only three states have agreed to enter into such an agreement. The conferees expect the Department to take the necessary steps to insure that section 803 is implemented as the Congress intended.

[page 15]

Subsection 102(c) of the House bill would have exempted the Defense Intelligence Agency and the Defense Mapping Agency from reductions in non-headquarters personnel reductions by the Secretary of Defense mandated by the Department of Defense Reorganization Act of 1986. Since the House Committee's action, the Secretary has made sufficient defense personnel reductions to satisfy the requirements of that Act, making subsection 102(c) of the House bill unnecessary.

## SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. Section 103 of the conference report is identical to Section 103 of the House bill and Section 103 of the Senate amendment.

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

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

SECTION 104

Section 104 of the House bill provided that funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan resistance to support military or paramilitary operations in Nicaragua only as authorized pursuant to Section 101 and as specified in the Classified Schedule of Authorizations referred to in Section 102, Section 502 of the National Security Act of 1947, or any provision of law specifically providing such funds, materiel or assistance, such as is contained in H.J. Res. 523 of the 100th Congress, a joint resolution providing assistance and support for peace, democracy and reconciliation in Central America (Public Law 100-276).

The Senate amendment contained no comparable provision but authorized funds for the provision of intelligence information and advice.

Section 104 of the conference agreement is identical to Section 104 of the House bill.

[page 16]

TITLE II—INTELLIGENCE COMMUNITY STAFF

SECTIONS 201, 202, AND 203

Title II of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1989 for the Intelligence Community Staff and provides for administration of the Staff during fiscal year 1989 in the same manner as the Central Intelligence Agency. Both the House bill and the Senate amendment authorized \$23,745,000 and 244 personnel.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

SECTION 301

Section 301 of the conference report authorizes appropriations for fiscal year 1989 of \$144,500,000 for the CIA Retirement and Disability Fund. Both Section 301 of the House bill and Section 301 of the Senate amendment authorized \$144,500,000 for the Fund.

Section 302 of the House bill contained a number of technical amendments to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees affecting certain former spouses of CIA employees. The Senate amendment had no comparable provision. Section 302 of the conference agreement is identical to section 302 of the House bill.

TITLE IV—GENERAL PROVISIONS

SECTION 401

Section 401 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of

27



INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

the United States. Section 401 of the conference report is identical to Section 401 of the House bill and of the Senate amendment.

SECTION 402

Section 402 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation of benefits authorized by law. Section 402 of the conference report is identical to Section 402 of the House bill and of the Senate amendment.

SECTION 403

Section 403 of the House bill would require the Director of Central Intelligence and the Secretary of Defense to submit 90 days after enactment a report setting forth an analysis of the representation of each minority group at the CIA and NSA respectively, and proposing a plan for each agency that would address any underrepresentation of any such group by September 30, 1991. Section 403 of the conference report is identical to Section 403 of the House bill.

[page 17]

SECTION 404

Section 404 of the House bill would require the disclosure of all live sighting reports or portions thereof correlated or possibly correlated to any United States citizen reported missing in action, prisoner of war or unaccounted for from the Vietnam conflict to the next-of-kin of that United States citizen. This provision in effect codified current disclosure policy employed by the Defense Intelligence Agency which has responsibility for collecting and analyzing such live sighting reports.

The Senate amendment contained no comparable provision.

Section 404 of the conference agreement is identical to section 404 of the House bill.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

SECTION 501

Section 501 of the conference report would grant the Director of Central Intelligence the authority during fiscal year 1989 to grant monetary or other relief (including reinstatement or promotion) to a former employee of the Central Intelligence Agency that the Director determines had had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee.

Section 501 of the conference report is identical to section 501 of the House bill and of the Senate amendment.

SECTION 502

Section 502 of the Senate amendment would permit a small class of Central Intelligence Agency employees a second opportunity to

25

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

elect coverage under the new Federal Employees Retirement System.

The House bill contained no comparable provision.

Section 502 of the conference agreement is identical to section 502 of the Senate amendment except for a technical amendment to new subsection 301(d)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees as amended.

SECTION 503

Section 503 of the Senate amendment would permit the Director of Central Intelligence to compensate retired military officers who serve as members of advisory committees to the DCI notwithstanding the provision of law which precludes compensation to "persons holding other offices or positions under the United States for which they receive compensation."

The House bill contained no comparable provision.

Section 503 of the conference report is identical to section 503 of the Senate amendment.

SECTION 504

Section 504 of the Senate amendment would require the Director of Central Intelligence to provide reports to the Intelligence Com-

[page 18]

mittees of the Congress concerning the Inspector General at the CIA.

The House bill contained no comparable provision.

Section 504 of the conference agreement is identical to section 504 of the Senate amendment.

\* TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

SECTION 601

Section 601 of the House bill would establish a demonstration project to ascertain the effects on recruitment and retention of personnel and on field investigations in the New York Field Division of the Federal Bureau of Investigation by providing lump-sum payments not to exceed \$20,000 and periodic payments between 20 and 25 percent of basic pay to employees of the New York Field Division of the FBI.

Section 601 of Senate amendment contained a comparable provision without dollar specific ceilings for lump-sum payments and floors and ceilings periodic payments.

Section 601 of the conference agreement is identical to section 601 of the House bill

TITLE VII—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SECTION 701

Section 701 of the House bill and the Senate amendment would revise section 421 of Title 10, United States Code, to provide authority to the Secretary of Defense to use both appropriated and non-appropriated funds for the expenses of arrangements with foreign countries for cryptologic support.

26

Section 701 of the  
may not  
fit of the  
Committee  
commitment  
change  
cipal be  
in the c  
supplan  
propria  
principa  
ments,  
control  
spect to  
funds,  
tes an  
porting  
Secti  
of Secr  
tion of  
Comm  
nional  
The  
Sect  
identi  
H.R.  
1989,  
Assist  
Assist  
tions'  
retar  
For  
conce  
rebuil  
the c  
thori  
and  
of D  
enge  
ncat  
nee  
Senc  
arm  
To  
mes  
be  
Dep  
inc  
m

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

Section 701 of the conference agreement is identical to section 701 of the Senate amendment except that non-appropriated funds may not be used to acquire items or services for the principal benefit of the United States and must be reported to the Intelligence Committees pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense. The purpose of the first change with respect to the items and services acquired for the principal benefit of the United States is to ensure that funds acquired in the context of cooperative cryptologic support arrangements not supplant the requirement that the Department of Defense seek appropriations for items and services which will be redound to the principal benefit of the United States. In such cooperative arrangements, it is anticipated that an equitable sharing of expenses will control each party's contribution to cooperative projects. With respect to the procedures for reporting the use of non-appropriated funds, they have been worked out in advance between the Committees and the Department of Defense and provide for detailed reporting of such expenditures.

## SECTION 702

Section 702 of the House bill would have created a new Assistant of Secretary of Defense for Intelligence in lieu of the existing position of the Assistant Secretary of Defense for Command, Control

[page 19]

Communications, and Intelligence and would have added an additional undesignated Assistant Secretary of Defense position.

The Senate amendment contained no comparable provision.

Section 702 of the conference agreement contains a provision identical to section 701 of the Conference Report to accompany H.R. 4264, the National Defense Authorization Act, Fiscal Year 1989, which would permit the Secretary of Defense to designate an Assistant Secretary of Defense for Intelligence in which case the Assistant Secretary of Defense for Command, Control, Communications and Intelligence would be redesignated as the Assistant Secretary of Defense for Command, Control and Communications.

For more than a decade, the Intelligence Committees, often in concert with the Committees on Armed Services, have worked to rebuild Department of Defense intelligence capabilities following the draw down of the mid-1970's. The Committees have also authorized substantial additional resources to ensure that accurate and timely intelligence continues to be available to the Secretary of Defense and operational commanders despite the severe challenges posed by new requirements, the changing nature and sophistication of the target, and the increased hostile intelligence threat. These challenges will continue to pose problems for Defense intelligence in the foreseeable future and will likely be compounded by arms control agreements and continued fiscal constraints.

To better utilize available intelligence resources and cope with these challenges, the Congress has also attempted to strengthen the management of intelligence and related activities within the Department of Defense. Intelligence is widely recognized as a unique area within DOD. The unusual security requirements for compartmented intelligence information, the extensive cross-serv-

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

ice nature of intelligence activities, and the need for inter-agency coordination of Defense intelligence operational, programmatic, analytic and production activities pose special management problems. Moreover, because intelligence plays such a decisive role in supporting military operations and in the defense policy, planning and weapon acquisition processes, the adequacy of organizational structures and mechanisms to ensure that necessary intelligence is made available to Defense officials and military commanders may well determine the success or failure of Defense programs and operations.

The conferees are concerned that the current organization and management of Defense intelligence and counterintelligence activities is not optimized to meet current needs and projected challenges. The conferees continue to find intelligence functions and responsibilities fragmented within the Office of the Secretary of Defense. This fragmentation appears to inhibit the coordination of Defense intelligence activities and to reduce the effectiveness of DoD representation in the national intelligence community. Moreover, the fragmentation denies Congress a single focal point who can articulate the intelligence needs of the Department and recommend initiatives to overcome intelligence shortfalls and denies the Secretary of Defense policy level intelligence advice to support critical decisions. For example, the Department still does not have a senior, full-time, civilian official who is responsible for advising the Secretary, Deputy Secretary and Under Secretaries regarding intel-

[page 20]

ligence matters and who participates in the resource allocation process and in the production and evaluation of intelligence estimates. Even the Department of State, with only a fraction of the intelligence resources of DoD, delegates these responsibilities to an Assistant Secretary of State.

The conferees recognize many factors contribute to the Department's apparent intelligence deficiencies but believe organization and management improvements could substantially enhance programs to counter the hostile intelligence threat to Defense activities, to provide needed intelligence to combat drugs and terrorism, and to ensure that the latest intelligence is made available to support major policy decisions as well as research, development and acquisition decisions for major weapon systems.

The fiscal year 1989 DoD Authorization Conference also recognized shortfalls in two of these areas. The Conference required submission of an annual Net Assessment which would include an in-depth analysis of Soviet capabilities and establishment of an independent "red team" to look at the Strategic Defense Initiative. The DoD conferees also emphasized the key role intelligence plays in drug interdiction and directed the Secretary of Defense to work with the Director of Central Intelligence to ensure that the collection of drug interdiction information is established as a high priority for the Intelligence Community.

In addition to the Congressional concerns, DoD internal observations and recommendations regarding current Defense intelligence management were highlighted in recently completed reports required by the Goldwater-Nichols DoD Reorganization Act of 1986. In two reports published by the Office of the Secretary of Defense

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

staff and in the report of the Chairman of the Joint Chiefs of Staff, recommendations were advanced for consideration by the Secretary of Defense and the Congress concerning the separation of C<sup>3</sup> and Intelligence and establishing an Assistant Secretary of Defense for Intelligence to centrally coordinate and focus on U.S. intelligence issues. For example, the Reassessment of Defense Agencies and DoD Field Activities, dated October 1987, included the following conclusions: "Oversight of the Defense Intelligence Community, at large, is fragmented, causing program disconnects for the U&S Commands and their components, the Military Departments, and other Defense Agencies."

This report goes on to recommend "That oversight of all DoD intelligence be assigned to a single senior OSD official responsible for intelligence policy, plans, programs, and budgets." Other reports recommended that consideration be given to establishment of an Assistant Secretary of Defense for Intelligence.

The conferees are usually reluctant to legislate how the Department of Defense organizes itself, but remain concerned about the apparent deficiencies in Defense intelligence organization and management and the resulting potential for intelligence failures or shortfalls. The conferees believe, as a minimum, management of Defense intelligence and counterintelligence activities within the Office of the Secretary of Defense must be reexamined by the Secretary in light of the concerns addressed above as well as the observations/recommendations contained in DoD management studies. Further, since only five months remain in the current Administra-

[page 21]

tion, the conferees believe the new administration should also consider changes in current practices to strengthen management of Defense intelligence including the establishment of an Assistant Secretary of Defense for Intelligence.

Accordingly, the conferees direct the Secretary of Defense after February 1, 1989 and prior to March 1, 1989, to review the management of Defense intelligence and counterintelligence activities within the Department and report his views regarding the adequacy of current management arrangements and establishment of the position of Assistant Secretary of Defense for Intelligence.

## SECTION 703

Section 703 of the House bill redesignated and made technical corrections to section 1607 of Title 10, United States Code, which pertained to the disclosure of organizational and personnel information by the Defense Intelligence Agency.

The Senate amendment had no comparable provision.

Section 703 of the conference agreement is identical to section 703 of the House bill.

## SECTION 704

The Senate amendment contained a provision authorizing the payment of a death gratuity to survivors of any member of the armed forces on active duty assignment to a Defense Attaché Office outside the United States who died as a result of hostile or terrorist action. The death gratuity was to be the same as those

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

payable under section 1489(b) of Title 10, United States Code, to members of the armed forces and civilian employees of the Department of Defense who died from hostile or terrorist action while they were assigned to an intelligence component of the Department of Defense under cover or otherwise engaged in clandestine intelligence activities.

The House bill contained no comparable provision.

Section 704 of the conference agreement would authorize the Secretary of Defense to pay a death gratuity identical to that payable under section 1489(b) to the surviving dependents of any member of the armed forces who, while serving on active duty assigned to a Defense Attaché Office outside the United States, died as a result of hostile or terrorist activities. The authority to make such death gratuity payments would apply only during fiscal year 1989, although it would apply with respect to any member of the armed forces who died on or after June 15, 1988. Finally, the Secretary of Defense is directed to submit to Congress no later than March 1, 1989, a report concerning the advisability of a permanent law permitting the payment of death gratuities to survivors of any members of the armed forces who, on active duty assigned to a Defense Attaché Office outside the United States, died as a result of hostile or terrorist activities.

The conferees agree that Defense Attachés are put at particular risk by virtue of their being publicly identified as U.S. military representatives abroad. They were also fully sympathetic with ensuring that the survivors of Navy Captain William Nordeen, the De-

[page 22]

fense Attaché recently assassinated in Athens, be provided for in the same manner as other DoD members placed at special risk.

Nevertheless, the conferees were reluctant to enact the provision into permanent law in the absence of a formal assessment of such action from the Department of Defense. Obviously, military personnel are often placed at peculiar risks while serving abroad either in statutory posts or in operational task forces. On the other hand, Defense Attachés perhaps should be considered unique and that they are readily and personally identifiable targets for hostile or terrorist actions.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

*Intelligence Support to Drug Interdiction*

The conferees endorse the actions taken in the National Defense Authorization Act, Fiscal Year 1989, with respect to Drug Interdiction and Law Enforcement Support.

The conferees agree that it is appropriate for Defense intelligence activities, both national and tactical, to aid the target development and drug interdiction processes by providing reconnaissance and intelligence support. The unique information requirements to support drug interdiction could be met, in part, with tailored intelligence products.

The DoD Authorization Bill requires the President to report on the plan for the integration of command, control, communications and technical intelligence assets of the United States. The confer-

30

## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

ees believe the reporting requirement is a first step in understanding and applying the U.S. intelligence apparatus to the drug interdiction challenge.

The conferees take note of and applaud the initial efforts of the national intelligence community to support law enforcement agencies, but detect that working agreements previously reached have been made on an agency-by-agency basis. The conferees believe that a comprehensive and coordinated effort must be established to ensure that the total capabilities of the DoD and national intelligence communities are exploited without a duplication of effort among services, agencies and activities. The ability to refine the target development requirements and manage the tasking of assets provides a challenge to both the law enforcement agencies and the DoD intelligence community. The conferees expect the challenge will be met with a well-managed program for intelligence support.

The conferees request that the Secretary of Defense and the Director of Central Intelligence, in concert with the law enforcement agencies, provide to the Congress no later than March 1, 1989 an assessment of the drug intelligence and target development information requirements, the impact on the intelligence community elements for supporting such requirements, and, a management plan for the tasking, collecting, exploiting and rapidly dissemination information in support of the target development and drug interdiction processes.

*Counterintelligence and Security*

The classified annexes to both the House and Senate bills included provisions with regard to counterintelligence and security. The

[page 23]

conferees believe a public statement of their concerns and actions in this area is also desirable.

Since their inception, the House and Senate Intelligence Committees have closely monitored the threat to the U.S. intelligence and other national security activities posed by foreign intelligence services, as well as counterintelligence and security programs of the intelligence community established to deal with this threat. Both committees have conducted extensive hearings, have undertaken comprehensive staff reviews and investigations of counterintelligence and security problems, and have asked for and received from the Administration studies and reports addressing various counterintelligence and security topics. The House and Senate Intelligence Committees have highlighted serious deficiencies in current counterintelligence and security programs and have authorized significantly increased funding to deal with many of these deficiencies.

The Senate Intelligence Committee is following up on its 1986 report on "Meeting the Espionage Challenge" and its 1987 report on "Security at the United States Missions in Moscow and Other Areas of High Risk" through the annual budget authorization hearing process and subsequent oversight hearings. The House Intelligence Committee continues to review progress made in implementing the recommendations in its 1987 report, "United States Counterintelligence and Security Concerns—1986" and its Subcommittee on Oversight is conducting a series of hearings on personnel security and counterintelligence issues.

2499

31

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

While some improvements have been instituted during the past ten years, and especially in the past two years, the conferees do not believe counterintelligence and security issues yet receive the priority treatment warranted by past problems and the continuing threat from foreign intelligence services. Despite a number of devastating espionage operations against the United States, the Marine Guard scandal, the discovery of technical penetration of the Moscow Embassy, and Soviet installation of a highly sophisticated surveillance system integral to the new Moscow Embassy building, the conferees believe that basic flaws in the government's security organizations remain and that the intelligence community is still poorly organized, staffed, trained, and equipped to deal with continuing counterintelligence challenges.

The conferees also remain concerned about the slow progress of the State Department in dealing effectively with counterintelligence and security issues. While a number of positive steps have been taken, including the creation of an expanded and upgraded Counterintelligence Staff, the Department of State needs to continue its efforts to improve management of security programs at overseas missions, including both personnel and physical security. Continued enhancements to the State Department Counterintelligence Staff are essential for this purpose. The conferees endorse the Senate Committee recommendation that consideration be given to amending Executive Order 12333 to include the State Department CI Staff within the Intelligence Community.

Although recognizing that the State Department's principal focus is diplomacy, the conferees believe that the emphasis accorded security programs must increase. Further, the conferees believe that such improvements are essential if overseas facilities are to receive

[page 24]

and retain classified intelligence information. Accordingly, the conferees request that the Secretary of State continue to keep the House and Senate Intelligence Committees informed regarding his security-related initiatives and that the DCI or his Director, Security Evaluation Office, report by December 31, 1988, on the SEO's charter and other functions related to protection against foreign intelligence threats to U.S. missions abroad. Development of an independent DCI capability to evaluate security at U.S. missions implements a recommendation in the Senate Intelligence Committee's 1987 report on "Security at the United States Missions in Moscow and Other Areas of High Risk." It is especially important in light of inaction on another recommendation in that report for assigning diplomatic security responsibilities to a number of Under Secretary-level officials.

Concerning intelligence community counterintelligence and security programs, the House and Senate Intelligence Committees have supported the DCI's initiative creating the CIA Counterintelligence Center and the DCI's Security Evaluation Office. While these are positive steps, the conferees remain concerned about the organization and focus of the intelligence community's foreign counterintelligence and security efforts and the need for the development of a comprehensive, interagency counterintelligence and security program. While interagency groups have made a contribution, they appear to operate more to address ad hoc policy initiatives than to

38

a true co  
ty activit  
ivities an  
attention  
personnel  
comprehe  
program.  
Many o  
ports issu  
1986-87 a  
ees, pur  
Committe  
ons thr  
I subm  
according  
conferees  
to curru  
nce an  
ggestion  
fiscal  
nt U.S.  
ve bee  
The co  
h price  
ration  
rogram

ny Na  
The co  
pute l  
onal G  
tense  
EWD) c  
The co  
nize t  
on mo  
in inte  
sider  
ts, th  
aining  
The c  
ipme  
report  
ate  
ard u  
(1  
ed,  
(2  
Sec  
equ  
(3



## INTELLIGENCE AUTHORIZATION ACT

P.L. 100-453

a true coordinating role. Moreover, intelligence community security activities often operate in isolation from counterintelligence activities and programs focusing on human agents, with insufficient attention paid to technical counterintelligence and basic physical, personnel, and information security. No agency has implemented a comprehensive counterintelligence personnel career development program.

Many of these problems were addressed in the comprehensive reports issued by the House and Senate Intelligence Committees in 1986-87 and in the President's report to the Intelligence Committees, pursuant to the Intelligence Authorization Act of 1986. The Committees are monitoring compliance with those recommendations through ongoing hearings and staff inquiries, and the DCI has submitted follow-up reports at the direction of the President. Accordingly, to take stock of progress and outstanding needs, the conferees request that the DCI conduct a comprehensive review of the current organization and effectiveness of U.S. counterintelligence and security efforts in light of the foregoing comments and suggestions, and report to the House and Senate Committees with the fiscal year 1990 budget describing his views regarding the current U.S. counterintelligence and security effort, what changes have been instituted and what changes he proposes.

The conferees expect that the Intelligence Committees will give high priority next year to working with officials of the new Administration on improvements in U.S. counterintelligence and security programs.

[page 25]

### *Army National Guard Intelligence Units*

The conferees understand that subsequent to a resolution of a dispute between the National Security Agency and the Army National Guard, a decision was made in the Office of the Secretary of Defense to provide a Combat Electronic Warfare and Intelligence (CEWI) capability to the National Guard.

The conferees continue to endorse the total force policy and recognize the contributions National Guard components could make upon mobilization. For this reason, any proposal to provide a signals intelligence (SIGINT) capability to the National Guard should consider the wartime mission of the unit, the efficiency of the units, the availability of linguists and equipment, and adequacy of training and control mechanisms.

The conferees direct that, prior to the transfer of any SIGINT equipment to the National Guard, the Secretary of Defense submit a report to the Armed Services and Intelligence Committees of the Senate and House of Representatives that identifies the National Guard units scheduled to receive the equipment and describes:

- (1) the amount, type and cost of the equipment to be provided,
- (2) the safeguards agreed to by the Army and the National Security Agency to ensure proper use and security of the equipment,
- (3) the training and linguist support plan, and

2501

33

LEGISLATIVE HISTORY  
HOUSE CONF. REP. NO. 100-879

(4) the wartime missions and planned contributions to be made by these units.

LOUIS STOKES,  
ANTHONY C. BEILSON,  
ROBERT A. ROE,  
MATTHEW F. McHUGH,  
BERNARD J. DWYER,  
CHARLES WILSON,  
BARBARA B. KENNELLY,  
DAN GLICKMAN,  
NICK MAVROULES,  
BILL RICHARDSON,  
HENRY J. HYDE,  
DICK CHENEY,  
BOB McEWEN,  
DAN LUNGREN,

For matters within the jurisdiction of the Committee on Armed Services:

LES ASPIN,  
SAMUEL S. STRATTON,  
WM. L. DICKINSON,  
*Managers on the Part of the House.*

[page 26]

DAVID L. BOREN,  
BILL COHEN,  
LLOYD BENTSEN,  
SAM NUNN,  
ERNEST F. HOLLINGS,  
BILL BRADLEY,  
ALAN CRANSTON,  
HOWARD M. METZENBAUM,  
BILL ROTH,  
ORRIN G. HATCH,  
FRANK H. MURKOWSKI,  
ARLEN SPECTER,  
CHIC HECHT,  
JOHN WARNER,

For matters within the jurisdiction of the Committee on Armed Services:

J. JAMES EXON,  
STROM THURMOND,  
*Managers on the Part of the Senate.*

39