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In other words, what have we learned and what have we rectified from the nightmare of 40 years past?

Mr. President, I ask, indeed, what has become of those promises? The Genocide Treaty was one promise. Ninety-six nations have ratified that treaty and thereby have promised to fight genocide in the future.

But sadly, Mr. President, the United States has not made that promise. It has not ratified the Genocide Treaty.

Our promise to future generations must be the ratification of the Genocide Treaty. The agony of the Holocaust victims and the Holocaust survivors must not be forgotten as we move toward a calm future.

The ratification of the Genocide Treaty will not erase the scars of the past.

It will, however, serve as an assurance that the United States does not and will not condone the inhumane acts of genocide.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia [Mr. NUNN] is recognized for not to exceed 15 minutes.

Mr. NUNN. I thank the Chair.

SECURITY CLEARANCE INFORMATION ACT OF 1985

Mr. NUNN. Mr. President, I rise to offer a bill which is intended to close a critical loophole in our Government's current Security Clearance Program. Senators WILLIAM V. ROTH, JR., LAWTON CHILES, ALBERT GORE, JR., and TED STEVENS join me in introducing the "Security Clearance Information Act of 1985." The problem which the bill addresses is the growing inability of Department of Defense, Office of Personnel Management [OPM], and Central Intelligence Agency [CIA] investigators to obtain State and local criminal justice records on individuals being considered for access to classified information or sensitive national security duties.

As ranking minority member of the Permanent Subcommittee on Investigations, I ordered an investigation of our Government's Security Clearance Program. This investigation culminated in 4 days of hearings held this past April. Senator ROTH, who as chairman of our subcommittee, gave his full support and cooperation to those hearings, joins me today in introducing legislation drafted as a direct result of the subcommittee's work.

Testimony at those hearings confirmed that one of the most meaningful and productive sources of information in personnel security investigations is local criminal justice records. For many years, local jurisdictions were quite forthcoming in making this information available to Federal investigators from the Defense Investigative Service [DIS], the Office of Personnel Management, and the Central Intelligence Agency [CIA].

However, our subcommittee learned that in recent years a disturbing trend has developed. Local and State jurisdictions in increasing numbers are denying DIS, OPM, and CIA agents access to criminal history records or permitting access to records of convictions only—not records of arrest. Other jurisdictions are severely limiting the number of requests that can be made or delaying the processing of these requests for a considerable period of time. The net result is that this important source of information is being seriously curtailed in many localities throughout the country.

Such a situation would be ludicrous if it did not have such far reaching and dangerous implications. Currently the U.S. Government is unable to obtain State and local criminal records on applicants for some of the most sensitive positions in the military and other Government agencies that are entrusted with our Nation's national security. Our recent hearings showed the serious nature of espionage as seen in the Christopher Boyce case at TRW, the William Holden Bell case at Hughes and the James Harper case at Systems Control Technology.

The potential target for Soviet espionage efforts is, unfortunately, an increasingly massive one. Today more than 4 million Americans hold Government security clearances, including more than 53 percent of Federal employees. More than 1½ million industry personnel are cleared. The latter figure alone has increased by over 44 percent since 1979.

Cleared personnel have potential access to an incredibly large amount of classified material. In our subcommittee hearings we heard testimony that there are today over 17 million Government secrets whose height, if stacked one on top of each, would equal the height of eight Washington Monuments.

Obviously, our proposal today will not respond to the entire problem of espionage. However, it will close a loophole which the Department of Defense, the Office of Personnel Management, the Department of Energy and the Federal Bureau of Investigation specifically brought to our attention during our hearings.

To correct this problem, I propose this bill which specifically authorizes the Federal Government to obtain access to local criminal justice records when conducting eligibility investigations for, one, access to classified information; two, assignment to or retention in sensitive national security duties; or three, acceptance or retention in the armed services. Such a request is only permitted if the person under investigation consents to it in writing. Moreover, the criminal history record information obtained pursuant to this request would be afforded the same protections as provided by the Privacy Act.

In conclusion, Mr. President, I once again must emphasize the importance of this legislation. Since the inception of the Government's personnel security investigation program, one of the most meaningful resources of information has been the criminal justice records of municipalities, counties and States. These local criminal records contain a wealth of information particularly pertinent to the trustworthiness and reliability of persons who are employed in sensitive positions or have access to classified information. In recent years, access to these vital files has been seriously eroding.

This inability to review criminal record histories is causing severe delays in clearing employees for Federal work and contracts. In addition, it is impairing the Government's ability to evaluate the overall suitability of an individual for a sensitive position and, thus, decreasing the Government's ability to meet its obligations for maintaining and safeguarding classified information. Not suprisingly, hostile intelligence services are not overly intimidated by a Government personnel security program like this where the proverbial left hand of the Government does not know or is not allowed to know what the right hand does.

I recommend passage of this bill so that we can put some credence into our Security Clearance Program.

Mr. President, I ask unanimous consent that the text and the section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1347

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Security Clearance Information Act of 1985".

CONGRESSIONAL FINDINGS AND POLICIES

SEC. 2. The Congress finds—

(1) that under the Constitution, Congress has the responsibility and power to provide for the common defense and security of our Nation;

(2) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency conduct investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services;

(3) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency have access to criminal history record information when conducting investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services; and

(4) that the interests of national security have been adversely affected by the reluc-

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tance and refusal of many state and local criminal justice agencies to provide criminal history record information to the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for use in investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services.

SEC. 3. Chapter 31 of Title 10, United States Code, is amended by striking out section 520a and substituting the following:

"SECTION 520a. CRIMINAL HISTORY RECORD INFORMATION FOR NATIONAL SECURITY PURPOSES

"(a) As used in this chapter:

"(1) The term "criminal justice agency" includes federal, state, and local agencies and means: (A) courts or (B) government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or Executive Order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

"(2) The term "criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

"(3) The term "classified information" means information or material designated pursuant to the provisions of a statute or Executive Order as requiring protection against unauthorized disclosure for reasons of national security.

"(4) The term "state" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of Pacific Islands, and any other territory or possession of the United States.

"(5) The term "local" and "locality" means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal or other local government level.

"(b)(1) Upon request by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency criminal justice agencies shall make available criminal history record information regarding individuals under investigation by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for the purpose of determining eligibility for (A) access to classified information, (B) assignment to or retention in sensitive national security duties, or (C) acceptance or retention in the armed services. Fees charged for providing criminal history record information pursuant to this subsection shall not exceed those charged to other government agencies for such information.

"(2) This subsection shall apply notwithstanding any other provision of law or regulation of any State or of any locality within a State, or any other law of the United States.

"(c) The Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency shall not obtain criminal history record information pursuant to this section unless it has received written consent from the individual under investigation for the release of such information for one or more of the purposes set forth in subsection (b).

"(d) Criminal history record information received under this section shall not be disclosed except for the purposes set forth in subsection (b) or as provided by section 552a of Title 5, United States Code.".

SEC. 4. The amendments made by this Act shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for any of the purposes specified in subsection (b) of section 520a of Title 10, United States Code, as added by this Act.

SEC. 5. The amendments made by this Act are made pursuant to the powers vested in Congress as found in Section 8 of Article I of the United States Constitution.

SECTION-BY-SECTION ANALYSIS

Section 1. States the title of the bill.

Section 2. Four subsections specify the Congressional findings justifying federal action in this area. Congress is entrusted with the responsibility and power to provide for our national security. These provisions establish that the inability of the Department of the Defense, the Office of Personnel Management, and the Central Intelligence Agency to obtain state and local criminal justice records when conducting background investigation negatively impacts upon our nation's security.

Section 3. Amends Title 10, United States Code, Section 520(a) by striking its language and substituting the proposed legislation. The current language of Section 520(a) is inadequate. Its language requests, but does not require, state and local governments to provide criminal history information. It is also inadequate since it is limited only to the Department of Defense and only for military recruitment purposes.

The new 520(a) language makes the language mandatory and broadens its scope beyond military recruitment to include contractor, civilian and military personnel with access to sensitive national security information or duties.

Subsection (a)(1-5) defines the appropriate terms as used in the statute. It utilizes those definitions now commonly used in the law enforcement community.

Subsection (b)(1) specifically authorizes the federal government, through the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, to obtain access to local criminal justice records. Such requests are limited to those made in connection with investigations to determine eligibility for (A) access to classified information; (B) assignment to or retention in sensitive national security duties; or (C) acceptance or retention in the armed services. Fees charged for such records cannot exceed those normally charged to other agencies.

Subsection (b)(2) reiterates the authority under the Supremacy Clause of the federal Constitution for such legislation.

Subsection (c) protects the rights of the individual under investigation since it requires his written permission for the release of such information by the local or state criminal justice agencies.

Subsection (d) acts as a further protection to the rights of the individual under investigation. It affords the protections found under the Privacy Act to the subsequent disclosure of any criminal history record information obtained pursuant to this Act.

Section 4. Provides for the effective date of the Act. Only those inquiries beginning after enactment of the Act would be able to utilize its provisions.

Section 5. This section states that the amendments made by this Act are made pursuant to Article I, Section 8 of the United States Constitution. This reinforces the Congressional intention to pre-empt this area of legislation as an issue of national security.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

Mr. ROTH. Mr. President, the Security Clearance Information Act of 1985, introduced by Senator NUNN and myself today, will constitute a major tool for enduring that all pertinent information relating to applicants for security clearances will be available to background investigators. It is incredible that such is not the case today.

In the course of hearings before the Permanent Subcommittee on Investigations, which I chair, investigators under the able direction of Senator NUNN, PSI's ranking minority member, revealed the shocking lack of information this Government is able to gather on persons who are to be granted access to our most sensitive national secrets. In many cases, only information gained from Federal indexes and a few neighbors is available for use in determining a person's trustworthiness. The great store of information regarding arrest history and other matters of a criminal justice nature at the State and local level has been largely unavailable.

While certainly not determinative of a person's current situation, such arrest and conviction information is absolutely necessary for a full adjudication of an application of a security clearance.

Our PSI hearings demonstrated the critical nature of both the initial and reinvestigation of a candidate's background. That background check is our first line of defense in safeguarding important military secrets from our enemies. If we are, by inaction, preventing the most thorough screening possible of the persons we entrust with such information, then we share the blame for a security clearance system that is ineffective and wasteful of the taxpayers' dollars.

I urge my colleagues to join Senator NUNN and myself to swiftly act on this critical legislation.

Mr. GORE. Mr. President, I take great pleasure in cosponsoring the Security Clearance Information Act of 1985, which my friend from Georgia, Senator SAM NUNN, is introducing today.

As the recent events surrounding the Walker espionage case have made all too clear, the threat of Soviet espionage is all too real and pervasive. The Soviet Union and its Warsaw Pact allies have a massive effort underway in this country to steal our secrets and our technology, in almost any manner they can. Against the backdrop of this threat, we have the sad and inexcusable state of affairs with respect to our system of security clearances, a system which is supposed to be one of

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our Nation's chief safeguards against espionage.

Our system of clearances has arrived at a state which resembles "fast food" security clearance. The number of requests for clearances has nearly doubled since 1979, until now over 4 million Americans hold clearances of some kind. Over one-half of all Federal employees hold a clearance, not to mention 1.5 million defense contractor employees. The weight of evidence suggests that many of these clearances are unnecessary. Thus, we are needlessly increasing the number of targets for foreign agents.

This legislation is but a first step in a series of legislative solutions that are the result of hearings held by the Permanent Subcommittee on Investigations on this topic. These hearings were presciently conceived by Senator NUNN well before the events surrounding the Walker case came to light.

This legislation is an attempt to alleviate one of the more glaring problems with our system of investigating applicants for clearances. For many years, State and local law enforcement authorities have been more than cooperative in sharing information with Federal agents. However, recently there has been a disturbing trend toward limiting the access to criminal records, which has been seriously debilitating to investigators from the Department of Defense and the Office of Personnel Management. The Federal Government has no guaranteed right to this information under current law. This bill would grant that access, thereby closing one of the loopholes in our existing law.

The subcommittee will continue to bring forth proposed solutions, and I urge the support of my colleagues to counter the real threat of espionage.

Mr. CHILES. Mr. President, recent events have underscored our need to close every possible loophole in our security clearance system. This legislation marks a continuation of congressional effort to make sure that we give Federal investigators every tool they need in order to do their job effectively. I am happy to join Senator NUNN, who initiated the subcommittee's hearings and investigations.

When investigators are assigned to look into a person's background for the purpose of determining their fitness for security clearances, they need to be able to look at local criminal justice records as part of their evaluation.

I, of course, recognize the natural aversion that some State and local officials may have concerning Federal bureaucrats from Washington, DC, coming down looking through their files and records. However, when you consider the fact that the person being investigated may hold an extremely sensitive position in the Defense Department or some other agency, then the "inconvenience" would be well worth it.

We need desperately to cut the number of people who have clearances and we need to do a better job of investigating the ones who are "cleared" for access to classified materials. There are nearly 4½ million persons who have security clearances. We probably don't know how many of those persons have local criminal records. Some States and localities cooperate, others don't. None are legally required to do so.

This bill will authorize access to local criminal justice records under three conditions. They are:

When Federal Government investigators are conducting a background check for access to classified information.

During an investigation to determine a person's eligibility to be assigned or retained in a sensitive national security post.

During an investigation to determine acceptance or retention in the armed services.

I strongly agree with the safeguards written into the bill, and I want to emphasize that these safeguards are the same as those provided for by the Privacy Act.

I want to compliment the senior Senator from Georgia [Mr. NUNN] for his leadership in this area that is of tremendous concern to and for all Americans. I participated in the hearings of the Permanent Subcommittee on Investigation and heard some of the testimony which spotlighted the need for this legislation.

Mr. President, I am hopeful that this bill will be quickly considered by the Senate because it is clear that we need to do everything we can to plug as many holes as we can in our security system.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. TRIBLE). Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes each.

DIPLOMATIC EXCHANGE PROGRAM

Mr. MATHIAS. Mr. President, it is a pleasure to report clear and substantial progress in an innovative program to enhance understanding among friendly nations and to enrich the training of our diplomatic corps abroad.

Three years ago, to celebrate the bicentennial of diplomatic relations between the United States and the Netherlands, our two governments agreed to exchange young diplomats for a year. I am pleased to announce that the first half of the first full exchange—in what I hope can become a model for future exchanges with other countries—has been taken. Tomorrow, in ceremonies at the State Department, Peter Le Poole of the Dutch Foreign Ministry, will be inducted as an honorary member of the U.S. Foreign Service.

Mr. Le Poole has earned this rare distinction. In a year, Mr. Le Poole has immersed himself in the American experience in a vigorous and searching manner which should stand him in good stead as he moves on to his country's embassy here as an economic officer. He has worked in my office; he has spent time with Representative BARNES of Maryland and other Members of Congress; he has participated in the activities of Senate and House committees; he has traveled from one end of the country to the other to observe the 1984 election; he has attended the annual conference of the National League of Cities; he has taken part in seminars at universities from Charlottesville to Chicago.

Shortly, Mark Wiznitzer, an able member of our own Foreign Service, will travel to The Hague to complete the exchange. I am confident that a similar year of orientation for Mr. Wiznitzer, who learned his Dutch on the island of Curacao where his father's business is located, will prove equally valuable before he takes over the post of political/economic officer in our embassy in Holland.

Mr. Le Poole and Mr. Wiznitzer are making history. We have had frequent and continuing exchanges of officers between NATO navies, armies and air forces. But this is the first direct swap of diplomatic officers to my knowledge. Thanks to the Government of the Netherlands, to the U.S. Information Agency which paid for our expenses on this end and thanks to the Foreign Service Institute and Foreign Commercial Service which helped arrange programs for these two diplomats, we have initiated an experiment which breaks new ground in strengthening the strong bonds of friendship and respect between two old and trusting allies. This kind of program also holds great potential for lowering any barriers that might separate people with common aspirations and principles.

I salute Peter Le Poole for pioneering this program. I commend Mark Wiznitzer for carrying it on. I look forward to the day when many more Peter Le Pooles and Mark Wiznitzers cross the Atlantic—and Pacific—to advance the cause of deeper and more comprehensive international understanding.

BILL FREDERICK—A FRIEND PASSES AWAY

Mr. DOLE. Mr. President, I speak for many Kansans in mourning the death of Bill Frederick. Bill was a quadriplegic as a result of an injury suffered when thrown from a horse 20 years ago. He never allowed adversity to get in the way. Bill loved politics and became a dedicated campaign worker for me and the Kansas Republican Party. But, he was far more than

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