

Calendar No. 287

99TH CONGRESS }
1st Session }

SENATE

{ REPORT
99-136

AUTHORIZING APPROPRIATIONS FOR FISCAL YEAR 1986 FOR INTELLIGENCE ACTIVITIES OF THE U.S. GOVERNMENT, THE INTELLIGENCE COMMUNITY STAFF, THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM (CIARDS) AND FOR OTHER PURPOSES

SEPTEMBER 11 (legislative day, SEPTEMBER 9), 1985.—Ordered to be printed

Mr. GOLDWATER, from the Committee on Armed Services, and on behalf of Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1271]

The Committees on Armed Services and Governmental Affairs, to which was referred the bill (S. 1271), authorizing appropriations for fiscal year 1986 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same or portions thereof, reports favorably thereon with amendment(s), and recommends that the bill (as amended) do pass.

SEQUENTIAL REFERRAL OF S. 1271

The Select Committee on Intelligence reported S. 1271, the Intelligence Authorization Act for fiscal year 1986, on June 11, 1985. The legislation was jointly referred to the Committees on Armed Services, Foreign Relations, Governmental Affairs, and the Judiciary. The Committee on Foreign Relations was restricted to the consideration of section 604 and title VII; the Committee on Governmental Affairs was restricted to the consideration of section 603; and the Committee on the Judiciary was restricted to the consideration of title V. The Committees on Armed Services and Governmental Affairs have acted on the legislation and submit this joint report. The Committees on Foreign Relations and the Judiciary have taken no action on the legislation, and pursuant to the terms of a unanimous consent agreement establishing the expiration of the referral on September 11, 1985, should be discharged from further consideration of the legislation of that date.

51-010 O

ACTION OF THE COMMITTEE ON ARMED SERVICES

The Committee on Armed Services has carefully reviewed the programs authorized by S. 1271 and reports the bill favorably without amendment as to the programmatic elements of the bill as reported by the Select Committee on Intelligence. The committee has, however, adopted an amendment to the legislation dealing with access to criminal history records for national security purposes.

The committee has had a longstanding concern about the adequacy of security practices in the Department of Defense. The recent arrest and indictment of several members and ex-members of the U.S. Armed Forces on espionage charges draws attention to the urgent need to address inadequate security practices of the Government.

The Permanent Subcommittee on Investigations of the Committee on Governmental Affairs held an extensive set of hearings into the question of the procedures and practices for granting security clearances by the Government. Those hearings disclosed a number of glaring shortcomings and the committee has made a number of recommendations.

One of the principal shortcomings discovered by this committee and the Permanent Subcommittee on Investigations was that State and local governments frequently did not make available criminal history records of individuals who are under consideration for security clearances. As a result, a person might be given a security clearance without the knowledge that he or she was a convicted felon. Obviously, this poses a grave risk that unreliable persons will be granted access to highly classified information. Accordingly, one of the recommendations made by the Permanent Subcommittee on Investigations is that a Federal law be enacted which requires State and local governments to provide criminal history records to authorized Federal officials conducting background investigations of individuals who are under consideration for security clearances.

Department of Defense witnesses raised this with the committee in hearings on June 26, and urged that corrective legislation be adopted.

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 [OPM], and the Central Intelligence Agency [CIA].

However, 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 arrests. Other jurisdictions are severely limiting the number of requests that can be made or delaying the process 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.

For example, almost all of California refuses to cooperate with OPM and only provides DIS with conviction records. In Florida, 26 cities, including Miami, do not respond to requests by OPM for criminal history record information [CHRI]. The Metropolitan Police Department in the District of Columbia refuses to give any information beyond conviction data to either DIS or OPM.

This situation has 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. The Permanent Subcommittee on Investigations 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.

To correct this problem, the committee adopted this amendment which authorizes the Federal Government to obtain access to local criminal justice records when conducting eligibility investigations for (1) access to classified information, (2) assignment to or retention in sensitive national security duties, or (3) 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.

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 surprisingly, 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.

ACTION OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

The referral of S. 1271 to the Committee on Governmental Affairs was restricted to section 603, which provides for an increase in pay for the Director of Central Intelligence from Level II to Level I of the Executive Schedule and for the Deputy Director of Central Intelligence from Level III to Level II.

The Committee on Governmental Affairs approved an amendment to delete section 603 from S. 1271. This would have the effect of retaining the current pay levels.

COMMITTEE ACTIONS

On June 27, 1985, the Committee on Armed Services, a quorum being present, approved the bill as amended and ordered it favorably reported by voice vote.

On July 29, 1985, the Committee on Governmental Affairs approved for reporting an amendment proposed by Senator Roth to delete section 603. The vote was as follows:

YEAS	NAYS
Mr. Roth	Mr. Stevens
Mr. Mathias	Mr. Cohen
Mr. Durenberger	Mr. Eagleton
Mr. Rudman	
Mr. Cochran	
Mr. Chiles	
Mr. Nunn	
Mr. Levin	
Mr. Glenn	
Mr. Gore	

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committees find no regulatory impact will be incurred in implementing the provisions of this legislation.

CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT

The committees have complied with section 403 of the Congressional Budget and Impoundment Control Act of 1974 to the extent possible.

CHANGES IN EXISTING LAW

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

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Calendar No. 287

99TH CONGRESS
1ST SESSION

S. 1271

[Report No. 99-79]

[Report No. 99-136]

To authorize appropriations for fiscal year 1986 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11 (legislative day, JUNE 3), 1985

Mr. DURENBERGER, from the Select Committee on Intelligence, reported the following original bill; which was read twice and (pursuant to the order of June 6, 1985), referred jointly to the Committees on Armed Services, the Judiciary, Governmental Affairs, and Foreign Relations for the 30-day time period provided in section 3(b) of Senate Resolution 400, 94th Congress, provided that the Committee on the Judiciary be restricted to the consideration of title V, the Committee on Governmental Affairs be restricted to the consideration of section 603, and the Committee on Foreign Relations be restricted to the consideration of section 604 and title VII; provided that if any of said committees fails to report said bill within the 30-day time limit, such committee shall be automatically discharged from further consideration of said bill in accordance with section 3(b) of Senate Resolution 400, 94th Congress

JULY 24 (legislative day, JULY 16), 1985

Ordered, that the Committees on Armed Services, the Judiciary, Governmental Affairs, and Foreign Relations have until September 11, 1985, to report

SEPTEMBER 11 (legislative day, SEPTEMBER 9), 1985

Reported by Mr. GOLDWATER, from the Committee on Armed Services, and on behalf of Mr. ROTH, from the Committee on Governmental Affairs, with amendments

SEPTEMBER 11 (legislative day, SEPTEMBER 9), 1985

Committees on Foreign Relations and the Judiciary discharged

[Omit the part struck through and insert the part printed in italic]

A BILL

To authorize appropriations for fiscal year 1986 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Intelligence Authoriza-
4 tion Act for fiscal year 1986".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

7 **SEC. 101.** Funds are hereby authorized to be appropri-
8 ated for fiscal year 1986 for the conduct of the intelligence
9 activities of the following elements of the United States
10 Government:

- 11 (1) The Central Intelligence Agency.
- 12 (2) The Department of Defense.
- 13 (3) The Defense Intelligence Agency.
- 14 (4) The National Security Agency.
- 15 (5) The Department of the Army, the Department
16 of the Navy, and the Department of the Air Force.
- 17 (6) The Department of State.
- 18 (7) The Department of the Treasury.

1 (8) The Department of Energy.

2 (9) The Federal Bureau of Investigation.

3 **CLASSIFIED SCHEDULE OF AUTHORIZATIONS**

4 **SEC. 102.** The amounts authorized to be appropriated
5 under section 101, and the authorized personnel ceilings as of
6 September 30, 1986, for the conduct of the intelligence ac-
7 tivities of the elements listed in such section, are those speci-
8 fied in the classified Schedule of Authorizations prepared by
9 the Select Committee on Intelligence of the Senate. That
10 Schedule of Authorizations shall be made available to the
11 Committees on Appropriations of the Senate and the House
12 of Representatives, and to the President. The President shall
13 provide for suitable distribution of the schedule, or of appro-
14 priate portions of the schedule, within the executive branch.

15 **CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN**
16 **EXCESS OF PROGRAM AUTHORIZATIONS**

17 **SEC. 103.** During fiscal year 1986, funds may not be
18 made available for any intelligence activity unless such funds
19 have been specifically authorized for such activity or, in the
20 case of funds appropriated for a different activity, unless the
21 Director of Central Intelligence or the Secretary of Defense
22 has notified the appropriate committees of Congress of the
23 intent to make such funds available for such activity, except
24 that in no case may reprogramming or transfer authority be
25 used by the Director of Central Intelligence or the Secretary
26 of Defense unless for higher priority intelligence activities,

1 based on unforeseen requirements, than those for which funds
2 were originally authorized, and in no case where the intelli-
3 gence activity for which funds were requested has been
4 denied by Congress.

5 **PERSONNEL CEILING ADJUSTMENTS**

6 **SEC. 104.** The Director of Central Intelligence may au-
7 thorize employment of civilian personnel in excess of the
8 numbers authorized for fiscal year 1986 under sections 102
9 and 202 of this Act when he determines that such action is
10 necessary to the performance of important intelligence func-
11 tions, except that such number may not, for any element of
12 the Intelligence Community, exceed 2 per centum of the
13 number of civilian personnel authorized under such sections
14 for such element. The Director of Central Intelligence shall
15 promptly notify the Permanent Select Committee on Intelli-
16 gence of the House of Representatives and the Select Com-
17 mittee on Intelligence of the Senate whenever he exercises
18 the authority granted by this section.

19 **AUTHORIZATION OF APPROPRIATIONS FOR DESIGN AND**
20 **CONSTRUCTION OF A RESEARCH AND ENGINEERING**
21 **FACILITY AT THE NATIONAL SECURITY AGENCY**
22 **HEADQUARTERS COMPOUND**

23 **SEC. 105.** The National Security Agency is authorized
24 to secure the design and construction of a research and engi-
25 neering facility at its headquarters compound at Ft. Meade,
26 Maryland. A single continuous contract may be employed to

1 facilitate completion of the building authorized by this sec-
2 tion, and the Secretary of Defense is authorized to contract
3 for design and construction in advance of appropriations
4 therefor, but the cost of such facility may not exceed
5 \$75,064,000. Of the amounts authorized to be appropriated
6 under section 101(4) of this Act, there is authorized to be
7 appropriated for fiscal year 1986 the sum of \$21,364,000 for
8 design and construction of the facility authorized by this sec-
9 tion during fiscal year 1986.

10 TITLE II—INTELLIGENCE COMMUNITY STAFF

11 AUTHORIZATION OF APPROPRIATIONS

12 SEC. 201. There is authorized to be appropriated for the
13 Intelligence Community Staff for fiscal year 1986 the sum of
14 \$22,283,000.

15 AUTHORIZATION OF PERSONNEL END STRENGTH

16 SEC. 202. (a) The Intelligence Community Staff is au-
17 thorized two-hundred-and-thirty-three full-time personnel as
18 of September 30, 1986. Such personnel of the Intelligence
19 Community Staff may be permanent employees of the Intelli-
20 gence Community Staff or personnel detailed from other ele-
21 ments of the United States Government.

22 (b) During fiscal year 1986, personnel of the Intelli-
23 gence Community Staff shall be selected so as to provide
24 appropriate representation from elements of the United
25 States Government engaged in intelligence activities.

1 (c) During fiscal year 1986, any officer or employee of
2 the United States or a member of the Armed Forces who is
3 detailed to the Intelligence Community Staff from another
4 element of the United States Government shall be detailed on
5 a reimbursable basis, except that any such officer, employee,
6 or member may be detailed on a nonreimbursable basis for a
7 period of less than one year for the performance of temporary
8 functions as required by the Director of Central Intelligence.

9 INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN
10 SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

11 SEC. 203. During fiscal year 1986, activities and per-
12 sonnel of the Intelligence Community Staff shall be subject to
13 the provisions of the National Security Act of 1947 (50
14 U.S.C. 401 et seq.) and the Central Intelligence Agency Act
15 of 1949 (50 U.S.C. 430a et seq.) in the same manner as
16 activities and personnel of the Central Intelligence Agency.

17 TITLE III—CENTRAL INTELLIGENCE AGENCY
18 RETIREMENT AND DISABILITY SYSTEM

19 AUTHORIZATION OF APPROPRIATIONS

20 SEC. 301. There is authorized to be appropriated for the
21 Central Intelligence Agency Retirement and Disability Fund
22 for fiscal year 1986 the sum of \$101,400,000.

1 **TITLE IV—GENERAL PROVISIONS**

2 **AUTHORITY FOR THE CONDUCT OF INTELLIGENCE**

3 **ACTIVITIES**

4 **SEC. 401.** The authorization of appropriations by this
5 Act shall not be deemed to constitute authority for the con-
6 duct of any intelligence activity which is not otherwise au-
7 thorized by the Constitution or laws of the United States.

8 **INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS**

9 **AUTHORIZED BY LAW**

10 **SEC. 402.** Appropriations authorized by this Act for
11 salary, pay, retirement, and other benefits for Federal em-
12 ployees may be increased by such additional or supplemental
13 amounts as may be necessary for any increases in such em-
14 ployee compensation or benefits authorized by law.

15 **TITLE V—FACILITATING NATURALIZATION OF**
16 **CERTAIN FOREIGN INTELLIGENCE SOURCES**

17 **IMMIGRATION AND NATIONALITY ACT AMENDMENT**

18 **SEC. 501.** Section 316 of the Immigration and Nation-
19 ality Act (8 U.S.C. 1427) is amended by adding at the end
20 thereof the following new subsection:

21 “(g)(1) Whenever the Director of Central Intelligence,
22 the Attorney General and the Commissioner of Immigration
23 determine that a petitioner otherwise eligible for naturaliza-
24 tion has made an extraordinary contribution to the national
25 security of the United States or to the conduct of United
26 States intelligence activities, the petitioner may be natural-

1 ized without regard to the residence and physical presence
2 requirements of this section, or to the prohibitions of section
3 313 of this Act, and no residence within the jurisdiction of
4 the court shall be required.

5 “(2) A petition for naturalization may be filed pursuant
6 to this subsection in any district court of the United States,
7 without regard to the residence of the petitioner. Proceedings
8 under this subsection shall be conducted in a manner consist-
9 ent with the protection of intelligence sources, methods and
10 activities.

11 “(3) The number of aliens naturalized pursuant to this
12 subsection in any fiscal year shall not exceed fifteen. The
13 Director of Central Intelligence shall notify the Select Com-
14 mittee on Intelligence of the Senate and the Permanent
15 Select Committee on Intelligence of the House of Represent-
16 atives each time a determination is made to apply the provi-
17 sions of this subsection.”.

18 **TITLE VI—ADMINISTRATIVE PROVISIONS**

19 **USE OF PROCEEDS FROM DEFENSE DEPARTMENT**

20 **COUNTERINTELLIGENCE OPERATIONS**

21 **SEC. 601. (a)** During fiscal year 1986, the Secretary of
22 Defense may authorize use of proceeds from counterintelli-
23 gence operations conducted by components of the Military
24 Departments to offset necessary and reasonable expenses in-

1 curred in such operations without regard to the provisions of
2 section 3302 of title 31, United States Code.

3 (b) As soon as the net proceeds from any such counter-
4 intelligence operation are no longer necessary for the conduct
5 of that operation, such proceeds shall be deposited into the
6 Treasury as miscellaneous receipts.

7 **RETIREMENT BENEFITS FOR CERTAIN CENTRAL INTELLI-**
8 **GENCE AGENCY EMPLOYEES SERVING IN UNHEALTH-**
9 **FUL AREAS**

10 **SEC. 602.** Section 251 of the Central Intelligence
11 Agency Retirement Act of 1964 for Certain Employees (50
12 U.S.C. 403 note) is amended by inserting "(a)" after "SEC.
13 251." and by adding at the end thereof the following new
14 subsection:

15 "(b) The Director of Central Intelligence may from time
16 to time establish, in consultation with the Secretary of State,
17 a list of places which by reason of climatic or other extreme
18 conditions are to be classed as unhealthful posts. Each year
19 of duty at such posts, inclusive of regular leaves of absence,
20 shall be counted as one and a half years in computing the
21 length of service of a participant under this Act for the pur-
22 pose of retirement, fractional months being considered as full
23 months in computing such service. No extra credit for service
24 at such unhealthful posts shall be credited to any participant
25 who is paid a differential under section 5925 or 5928 of title
26 5, United States Code, for such service."

1 **COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR OF**
2 **CENTRAL INTELLIGENCE**

3 **SEC. 602.** (a) Section 5312 of title 5, United States
4 Code, is amended by adding at the end thereof the following:

5 "Director of Central Intelligence."

6 (b) Section 5313 of title 5, United States Code, is
7 amended by inserting "Deputy" before "Director of Central
8 Intelligence."

9 (c) Section 5314 of title 5, United States Code, is
10 amended by striking out "Deputy Director of Central
11 Intelligence."

12 **APPLICATION OF FOREIGN MISSIONS ACT TO INDIVIDUALS**
13 **ON SECONDMENT TO THE UNITED NATIONS SECRE-**
14 **TARIAT**

15 **SEC. 604. 608.** The Secretary of State is directed to
16 apply to all individuals who are on secondment from their
17 respective governments to the United Nations Secretariat
18 any and all terms, limitations, restrictions, or conditions ap-
19 plicable to individuals pursuant to the Foreign Missions Act
20 of 1982 (22 U.S.C. 4301 et seq.), as may from time to time
21 be applied to members of the consulates, embassies, or mis-
22 sions to the United Nations of those respective governments
23 in the United States, pursuant to the Foreign Missions Act.

1 **TITLE VII—DIPLOMATIC EQUIVALENCE AND**
2 **RECIPROCITY**

3 **SHORT TITLE**

4 **SEC. 701.** This title may be cited as the “Diplomatic
5 Equivalence and Reciprocity Act of 1985”.

6 **POLICY**

7 **SEC. 702. (a)** It is the policy of the United States that
8 the number of nationals of the Soviet Union admitted to the
9 United States who serve as diplomatic or consular personnel
10 of the Soviet Union in the United States shall not exceed the
11 number of United States nationals admitted to the Soviet
12 Union who serve as diplomatic or consular personnel of the
13 United States in the Soviet Union unless the President deter-
14 mines and so certifies to the Congress that additional admis-
15 sions of such personnel would be in the best interests of the
16 United States.

17 **(b)** The policy contained in subsection (a) shall not apply
18 to dependents or spouses who do not serve as diplomatic or
19 consular personnel.

20 **REPORTING REQUIREMENT**

21 **SEC. 703.** Not later than six months after the date of
22 enactment of this title, the Secretary of State and the Attor-
23 ney General shall prepare and transmit to the Committee on
24 Foreign Relations and the Select Committee on Intelligence
25 of the Senate and the Committee on Foreign Affairs and the
26 Permanent Select Committee on Intelligence of the House of

1 Representatives a report setting forth a plan for ensuring that
2 the number of Soviet nationals described in section 701 does
3 not exceed the limitation described in such section.

4 **DEFINITIONS**

5 **SEC. 704.** For purposes of this title—

6 (1) the term “diplomatic or consular personnel”
7 means the members of the diplomatic mission or the
8 members of the consular post, as the case may be;

9 (2) the term “members of the diplomatic mission”
10 is used within the meaning of article 1(b) of the Vienna
11 Convention on Diplomatic Relations, done on April 18,
12 1961; and

13 (3) the term “members of the consular post” is
14 used within the meaning of article 1(g) of the Vienna
15 Convention on Consular Relations, done April 24,
16 1963.

17 **TITLE VIII—ACCESS TO CRIMINAL HISTORY**
18 **RECORDS FOR NATIONAL SECURITY PUR-**
19 **POSES**

20 **CONGRESSIONAL FINDINGS AND POLICIES**

21 **SEC. 801.** *The Congress finds—*

22 (1) *that under the Constitution, Congress has the*
23 *responsibility and power to provide for the common de-*
24 *fense and security of our Nation;*

25 (2) *that the interests of national security require*
26 *that the Department of Defense, the Office of Person-*

1 *nel Management, or the Central Intelligence Agency*
2 *conduct investigations of individuals for the purpose of*
3 *determining eligibility for access to classified informa-*
4 *tion, assignment to or retention in sensitive national*
5 *security duties, or acceptance or retention in the armed*
6 *services;*

7 *(3) that the interests of national security require*
8 *that the Department of Defense, the Office of Person-*
9 *nel Management, or the Central Intelligence Agency*
10 *have access to criminal history record information*
11 *when conducting investigations of individuals for the*
12 *purpose of determining eligibility for access to classi-*
13 *fied information, assignment to or retention in sensi-*
14 *tive national security duties, or acceptance or retention*
15 *in the armed services; and*

16 *(4) that the interests of national security have*
17 *been adversely affected by the reluctance and refusal of*
18 *some State and local criminal justice agencies to pro-*
19 *vide criminal history record information to the Depart-*
20 *ment of Defense, the Office of Personnel Management,*
21 *or the Central Intelligence Agency for use in investiga-*
22 *tions of individuals for the purpose of determining eli-*
23 *gibility for access to classified information, assignment*
24 *to or retention in sensitive national security duties, or*
25 *acceptance or retention in the armed services.*

1 *SEC. 802. Chapter 31 of title 10, United States Code,*
2 *is amended by striking out section 520a and substituting the*
3 *following:*

4 ***“§ 520a. Criminal history record information for national***
5 ***security purposes***

6 *“(a) As used in this chapter:*

7 *“(1) The term ‘criminal justice agency’ includes*
8 *Federal, State, and local agencies and means: (A)*
9 *courts, or (B) Government agency or any subunit*
10 *thereof which performs the administration of criminal*
11 *justice pursuant to a statute or Executive order, and*
12 *which allocates a substantial part of its annual budget*
13 *to the administration of criminal justice.*

14 *“(2) The term ‘criminal history record informa-*
15 *tion’ means information collected by criminal justice*
16 *agencies on individuals consisting of identifiable de-*
17 *scriptions and notations of arrests, detentions, indict-*
18 *ments, information, or other formal criminal charges,*
19 *and any disposition arising therefrom, sentencing, cor-*
20 *rection supervision, and release. The term does not in-*
21 *clude identification information such as fingerprint*
22 *records to the extent that such information does not in-*
23 *dicade involvement of the individual in the criminal*
24 *justice system. The term does not include those records*
25 *sealed pursuant to a lawful order of a court of law.*

1 “(3) The term ‘classified information’ means in-
2 formation or material designated pursuant to the provi-
3 sions of a statute or Executive order as requiring pro-
4 tection against unauthorized disclosure for reasons of
5 national security.

6 “(4) The term ‘State’ means any of the several
7 States, the District of Columbia, the Commonwealth of
8 Puerto Rico, the Northern Mariana Islands, Guam,
9 the Virgin Islands, American Samoa, the Trust Terri-
10 tory of Pacific Islands, and any other territory or pos-
11 session of the United States.

12 “(5) The term ‘local’ and ‘locality’ means any
13 local government authority or agency or component
14 thereof within a State having jurisdiction over matters
15 at a county, municipal, or other local government level.

16 “(b)(1) Upon request by the Department of Defense, the
17 Office of Personnel Management, or the Central Intelligence
18 Agency, criminal justice agencies shall make available crimi-
19 nal history record information regarding individuals under
20 investigation by the Department of Defense, the Office of
21 Personnel Management or the Central Intelligence Agency
22 for the purpose of determining eligibility for (A) access to
23 classified information, (B) assignment to or retention in sen-
24 sitive national security duties, or (C) acceptance or retention
25 in the armed services. Fees charged for providing criminal

1 *history record information pursuant to this subsection shall*
2 *not exceed those charged to other criminal justice agencies for*
3 *such information.*

4 “(2) *This subsection shall apply notwithstanding any*
5 *other provision of law or regulation of any State or of any*
6 *locality within a State, or any other law of the United*
7 *States.*

8 “(c) *The Department of Defense, the Office of Personnel*
9 *Management, or the Central Intelligence Agency shall not*
10 *obtain criminal history record information pursuant to this*
11 *section unless it has received written consent from the indi-*
12 *vidual under investigation for the release of such information*
13 *for one or more of the purposes set forth in subsection (b).*

14 “(d) *Criminal history record information received under*
15 *this section shall not be disclosed except for the purposes set*
16 *forth in subsection (b) or as provided by section 552a of title*
17 *5, United States Code.”.*

18 *SEC. 803. The amendments made shall become effective*
19 *with respect to any inquiry which begins after the date of*
20 *enactment of this Act conducted by the Department of De-*
21 *fense, the Office of Personnel Management, or the Central*
22 *Intelligence Agency, for any of the purposes specified in sub-*
23 *section (b) of section 520a of title 10, United States Code, as*
24 *added by this Act.*

1 *SEC. 804. These amendments are made pursuant to the*
2 *powers vested in Congress as found in section 8 of article I of*
3 *the United States Constitution.*