

107TH CONGRESS
1ST SESSION

S. 1448

To enhance intelligence and intelligence-related activities of the United States Government in the prevention of terrorism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2001

Mr. GRAHAM (for himself, Mrs. FEINSTEIN, Mr. BAYH, Mr. NELSON of Florida, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To enhance intelligence and intelligence-related activities of the United States Government in the prevention of terrorism, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Intelligence to Prevent Terrorism Act of 2001”.

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

Sec. 1. Short title; table of contents.

TITLE I—AUTHORITIES OF DIRECTOR OF CENTRAL
INTELLIGENCE

- Sec. 101. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
- Sec. 102. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.
- Sec. 103. Establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
- Sec. 104. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence-related matters.

TITLE II—ELECTRONIC SURVEILLANCE

- Sec. 201. Exclusion of instructions to electronic devices from contents of communications under Foreign Intelligence Surveillance Act of 1978.
- Sec. 202. Duration of surveillance and searches of certain agents of foreign powers under Foreign Intelligence Surveillance Act of 1978.
- Sec. 203. Assistance for electronic surveillance under Foreign Intelligence Surveillance Act of 1978.
- Sec. 204. Clarification of relationship between wiretap authority and electronic surveillance authority under Foreign Intelligence Surveillance Act of 1978.

TITLE III—INFORMATION SHARING

- Sec. 301. Disclosure to Director of Central Intelligence of foreign intelligence-related information with respect to criminal investigations.
- Sec. 302. Foreign Terrorist Asset Tracking Center.
- Sec. 303. National Virtual Translation Center.
- Sec. 304. Training of government officials regarding identification and use of foreign intelligence.

1 **TITLE I—AUTHORITIES OF DI-** 2 **RECTOR OF CENTRAL INTEL-** 3 **LIGENCE**

4 **SEC. 101. RESPONSIBILITIES OF DIRECTOR OF CENTRAL** 5 **INTELLIGENCE REGARDING FOREIGN INTEL-** 6 **LIGENCE COLLECTED UNDER FOREIGN IN-** 7 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

8 Section 103(c) of the National Security Act of 1947
 9 (50 U.S.C. 403–3(c)) is amended—

- 10 (1) by redesignating paragraphs (6) and (7) as
 11 paragraphs (7) and (8), respectively; and

1 (2) by inserting after paragraph (5) the fol-
2 lowing new paragraph (6):

3 “(6) establish requirements and priorities for,
4 and manage the analysis and dissemination of, all
5 foreign intelligence collected under the Foreign In-
6 telligence Surveillance Act of 1978 (50 U.S.C. 1801
7 et seq.), including the provision of assistance to the
8 Attorney General in order to ensure that information
9 derived from surveillance or physical searches under
10 that Act is used efficiently and effectively for foreign
11 intelligence purposes, except that the Director shall
12 have no authority to direct, manage, or undertake
13 electronic surveillance operations pursuant to that
14 Act unless otherwise authorized by statute or execu-
15 tive order;”.

16 **SEC. 102. INCLUSION OF INTERNATIONAL TERRORIST AC-**
17 **TIVITIES WITHIN SCOPE OF FOREIGN INTEL-**
18 **LIGENCE UNDER NATIONAL SECURITY ACT**
19 **OF 1947.**

20 Section 3 of the National Security Act of 1947 (50
21 U.S.C. 401a) is amended—

22 (1) in paragraph (2), by inserting before the pe-
23 riod the following: “, or international terrorist activi-
24 ties”; and

1 (2) in paragraph (3), by striking “and activities
2 conducted” and inserting “, and activities con-
3 ducted,”.

4 **SEC. 103. ESTABLISHMENT AND MAINTENANCE OF INTEL-**
5 **LIGENCE RELATIONSHIPS TO ACQUIRE IN-**
6 **FORMATION ON TERRORISTS AND TER-**
7 **RORIST ORGANIZATIONS.**

8 (a) **AUTHORITY TO ESTABLISH AND MAINTAIN RE-**
9 **LATIONSHIPS.**—Title I of the National Security Act of
10 1947 (50 U.S.C. 401 et seq.) is amended—

11 (1) by redesignating section 112 as section
12 112A; and

13 (2) by inserting after section 111 the following
14 new section 112:

15 “ESTABLISHMENT AND MAINTENANCE OF INTELLIGENCE
16 RELATIONSHIPS TO ACQUIRE INFORMATION ON TER-
17 RORISTS AND TERRORIST ORGANIZATIONS

18 “SEC. 112. Notwithstanding any other provision of
19 law or regulation, any officer or employee of an element
20 of the intelligence community, acting in the course of the
21 official duties of such officer or employee, may establish
22 and maintain an intelligence relationship with any person
23 for purposes of acquiring information on the identity, loca-
24 tion, finances, affiliations, capabilities, plans, or intentions
25 of a terrorist or terrorist organization, or any other per-
26 son, entity, or organization (including a foreign govern-

1 ment) engaged in harboring, comforting, financing, aiding,
2 or assisting a terrorist or terrorist organization.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of that Act is amended by striking the
5 item relating to section 112 and inserting the following
6 new items:

“Sec. 112. Establishment and maintenance of intelligence relationships to ac-
quire information on terrorists and terrorist organizations.

“Sec. 112A. Restrictions on intelligence sharing with the United Nations.”.

7 **SEC. 104. TEMPORARY AUTHORITY TO DEFER SUBMITTAL**
8 **TO CONGRESS OF REPORTS ON INTEL-**
9 **LIGENCE AND INTELLIGENCE-RELATED MAT-**
10 **TERS.**

11 (a) AUTHORITY TO DEFER.—The Secretary of De-
12 fense, Attorney General, and Director of Central Intel-
13 ligence each may, during the effective period of this sec-
14 tion, defer the date of submittal to Congress of any cov-
15 ered intelligence report under the jurisdiction of such offi-
16 cial until February 1, 2002.

17 (b) COVERED INTELLIGENCE REPORT.—Except as
18 provided in subsection (c), for purposes of subsection (a),
19 a covered intelligence report is as follows:

20 (1) Any report on intelligence or intelligence-re-
21 lated activities of the United States Government
22 that is required by law to be submitted to Congress
23 by an element of the intelligence community during
24 the effective period of this section.

1 (2) Any report or other matter that is required
2 by law to be submitted to the Select Committee on
3 Intelligence of the Senate and Permanent Select
4 Committee on Intelligence of the House of Rep-
5 resentatives by the Department of Defense or the
6 Department of Justice during the effective period of
7 this section.

8 (c) EXCEPTION FOR CERTAIN REPORTS.—For pur-
9 poses of subsection (a), any report required by section 502
10 or 503 of the National Security Act of 1947 (50 U.S.C.
11 413a, 413b) is not a covered intelligence report.

12 (d) NOTICE TO CONGRESS.—Upon deferring the date
13 of submittal to Congress of a covered intelligence report
14 under subsection (a), the official deferring the date of sub-
15 mittal of the covered intelligence report shall submit to
16 Congress notice of the deferral. Notice of deferral of a re-
17 port shall specify the provision of law under which the re-
18 port would otherwise be submitted to Congress.

19 (e) EXTENSION OF DEFERRAL.—(1) Each official
20 specified in subsection (a) may defer the date of submittal
21 to Congress of a covered intelligence report under the ju-
22 risdiction of such official to a date after February 1, 2002,
23 if such official submits to the committees of Congress
24 specified in subsection (b)(2) before February 1, 2002, a
25 certification that preparation and submittal of the covered

1 intelligence report on February 1, 2002, will impede the
 2 work of officers or employees who are engaged in
 3 counterterrorism activities.

4 (2) A certification under paragraph (1) with respect
 5 to a covered intelligence report shall specify the date on
 6 which the covered intelligence report will be submitted to
 7 Congress.

8 (f) EFFECTIVE PERIOD.—The effective period of this
 9 section is the period beginning on the date of the enact-
 10 ment of this Act and ending on February 1, 2002.

11 (g) ELEMENT OF THE INTELLIGENCE COMMUNITY
 12 DEFINED.—In this section, the term “element of the intel-
 13 ligence community” means any element of the intelligence
 14 community specified or designated under section 3(4) of
 15 the National Security Act of 1947 (50 U.S.C. 401a(4)).

16 **TITLE II—ELECTRONIC** 17 **SURVEILLANCE**

18 **SEC. 201. EXCLUSION OF INSTRUCTIONS TO ELECTRONIC**
 19 **DEVICES FROM CONTENTS OF COMMUNICA-**
 20 **TIONS UNDER FOREIGN INTELLIGENCE SUR-**
 21 **VEILLANCE ACT OF 1978.**

22 (a) EXCLUSION.—Section 101(f) of the Foreign In-
 23 telligence Surveillance Act of 1978 (50 U.S.C. 1801(f))
 24 is amended by adding after paragraph (4) the following
 25 new matter:

1 “However, the term does not include the intercep-
2 tion of any instruction or signal that is given to an
3 electronic device solely for purposes of the operation,
4 manipulation, or alteration of the electronic device
5 and has no purpose of communication to another
6 person or purpose of retrieval of information to
7 which the person is lawfully entitled.”.

8 (b) SEMIANNUAL REPORTS ON INTERCEPTION OF IN-
9 STRUCTIONS.—Section 108(a) of that Act (50 U.S.C.
10 1808(a)) is amended by adding at the end the following
11 new paragraph:

12 “(3) Each report under the first sentence of para-
13 graph (1) shall also include a description of the intercep-
14 tion, if any, during the period covered by such report of
15 instructions or signals given to an electronic device as de-
16 scribed in the second sentence of section 101(f).”.

17 (c) TECHNICAL AMENDMENTS.—Section 108 of that
18 Act is further amended—

19 (1) in subsection (a), by striking “the House
20 Permanent Select Committee on Intelligence and the
21 Senate Select Committee on Intelligence” and insert-
22 ing “the Select Committee on Intelligence of the
23 Senate and the Permanent Select Committee on In-
24 telligence of the House of Representatives”; and

1 (2) in subsection (b), by striking “the Perma-
2 nent Select Committee on Intelligence and the Sen-
3 ate Select Committee on Intelligence” and inserting
4 “the Select Committee on Intelligence of the Senate
5 and the Permanent Select Committee on Intelligence
6 of the House of Representatives”.

7 **SEC. 202. DURATION OF SURVEILLANCE AND SEARCHES OF**
8 **CERTAIN AGENTS OF FOREIGN POWERS**
9 **UNDER FOREIGN INTELLIGENCE SURVEIL-**
10 **LANCE ACT OF 1978.**

11 (a) **ELECTRONIC SURVEILLANCE.**—Section 105(e)(1)
12 of the Foreign Intelligence Surveillance Act of 1978 (50
13 U.S.C. 1805(e)(1)) is amended by striking “, as defined
14 in section 101(a), (1), (2), or (3),” and inserting “, as
15 defined in paragraph (1), (2), or (3) of section 101(a),
16 or an agent of a foreign power, as defined in section
17 101(b)(1)(A),”.

18 (b) **PHYSICAL SEARCHES.**—Section 304(d)(1) of that
19 Act (50 U.S.C. 1824(d)(1)) is amended inserting after
20 “section 101(a),” the following: “or an agent of a foreign
21 power, as defined in section 101(b)(1)(A),”.

1 **SEC. 203. ASSISTANCE FOR ELECTRONIC SURVEILLANCE**
2 **UNDER FOREIGN INTELLIGENCE SURVEIL-**
3 **LANCE ACT OF 1978.**

4 Section 105(c)(2) of the Foreign Intelligence Surveil-
5 lance Act of 1978 (50 U.S.C. 1805(c)(2)) is amended—

6 (1) in subparagraph (B)—

7 (A) by inserting after “other specified per-
8 son” the following: “, or if the Court finds that
9 the actions of the target of electronic surveil-
10 lance may thwart the identification of such car-
11 rier, landlord, custodian, or other person, such
12 other persons,”; and

13 (B) by striking “or other person is pro-
14 viding” and inserting “or other person or per-
15 sons provide”;

16 (2) in subparagraph (C)—

17 (A) by striking “or other person” and in-
18 serting “or other person or persons”; and

19 (B) by striking “such person” and insert-
20 ing “such person or persons”; and

21 (3) in subparagraph (D), by striking “or other
22 person” and inserting “or other person or persons”.

1 **SEC. 204. CLARIFICATION OF RELATIONSHIP BETWEEN**
2 **WIRETAP AUTHORITY AND ELECTRONIC SUR-**
3 **VEILLANCE AUTHORITY UNDER FOREIGN IN-**
4 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

5 (a) WIRETAP AUTHORITY.—(1) Chapter 119 of title
6 18, United States Code, is amended by adding at the end
7 the following new section:

8 **“§ 2523. Construction with electronic surveillance au-**
9 **thority under Foreign Intelligence Sur-**
10 **veillance Act of 1978**

11 “Nothing in this chapter shall be construed to alter,
12 affect, or prohibit the authority to conduct electronic sur-
13 veillance under title I of the Foreign Intelligence Surveil-
14 lance Act of 1978 (50 U.S.C. 1801 et seq.) with respect
15 to any communication that may be intercepted by a means
16 authorized by this chapter.”.

17 (2) The table of sections at the beginning of that
18 chapter is amended by adding at the end the following
19 new item:

“2523. Construction with electronic surveillance authority under Foreign Intel-
ligence Surveillance Act of 1978.”.

20 (b) AUTHORITY FOR ELECTRONIC SURVEILLANCE
21 UNDER FISA.—(1) Title I of the Foreign Intelligence
22 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is
23 amended by adding at the end the following new section:

1 “CONSTRUCTION WITH INTERCEPTION AUTHORITY
 2 UNDER CHAPTER 119 OF TITLE 18, UNITED STATES CODE
 3 “SEC. 112. Nothing in this title shall be construed
 4 to alter, affect, or prohibit the authority to intercept com-
 5 munications under chapter 119 of title 18, United States
 6 Code, with respect to any communication or technical in-
 7 telligence that is subject to electronic surveillance under
 8 the provisions of this title.”.

9 (2) The table of contents at the beginning of that
 10 Act is amended by inserting after the item relating to sec-
 11 tion 111 the following new item:

“Sec. 112. Construction with interception authority under chapter 119 of title
 18, United States Code.”.

12 **TITLE III—INFORMATION**
 13 **SHARING**

14 **SEC. 301. DISCLOSURE TO DIRECTOR OF CENTRAL INTEL-**
 15 **LIGENCE OF FOREIGN INTELLIGENCE-RE-**
 16 **LATED INFORMATION WITH RESPECT TO**
 17 **CRIMINAL INVESTIGATIONS.**

18 (a) IN GENERAL.—Title I of the National Security
 19 Act of 1947 (50 U.S.C. 402 et seq.) is amended—

20 (1) by redesignating subsection 105B as section
 21 105C; and

22 (2) by inserting after section 105A the fol-
 23 lowing new section 105B:

1 “DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN
2 CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL
3 INVESTIGATIONS OF FOREIGN INTELLIGENCE
4 SOURCES

5 “SEC. 105B. (a) DISCLOSURE OF FOREIGN INTEL-
6 LIGENCE.—(1) Except as otherwise provided by law and
7 subject to paragraph (2), the Attorney General, or the
8 head of any other department or agency of the Federal
9 Government with law enforcement responsibilities, shall
10 expeditiously disclose to the Director of Central Intel-
11 ligence any foreign intelligence acquired by an element of
12 the Department of Justice or an element of such depart-
13 ment or agency, as the case may be, in the course of a
14 criminal investigation.

15 “(2) The Attorney General may, in extraordinary cir-
16 cumstances (as determined by the Attorney General), pro-
17 vide for the waiver of the applicability of paragraph (1)
18 to one or more classes of foreign intelligence, or foreign
19 intelligence with respect to one or more targets or matters,
20 if the Attorney General determines that disclosure of such
21 foreign intelligence under that paragraph would jeopardize
22 the integrity of on ongoing law enforcement investigation
23 of the United States.

24 “(b) NOTICE OF CRIMINAL INVESTIGATIONS.—(1)
25 Subject to paragraph (2), not later than 15 days after the

1 receipt by an element of the Department of Justice of a
2 report from an element of the intelligence community of
3 activity of a foreign intelligence source or potential foreign
4 intelligence source that, as determined by the Attorney
5 General, warrants investigation as criminal activity, the
6 Attorney General shall notify the Director of Central In-
7 telligence of the intention of the Attorney General to com-
8 mence, or decline to commence, a criminal investigation
9 of such activity.

10 “(2) The Attorney General may provide for the waiv-
11 er of the applicability of paragraph (1) to one or more
12 classes of foreign intelligence sources, or potential foreign
13 intelligence sources, if the Attorney General determines
14 that disclosure of activity of such foreign intelligence
15 source or potential foreign intelligence source, as the case
16 may be, under that paragraph would jeopardize the integ-
17 rity of on ongoing law enforcement investigation of the
18 United States.

19 “(c) PROCEDURES.—The Attorney General shall de-
20 velop procedures for the administration of this section, in-
21 cluding the disclosure of foreign intelligence by elements
22 of the Department of Justice, and elements of other de-
23 partments and agencies of the Federal Government, under
24 subsection (a) and the provision of notice with respect to
25 criminal investigations under subsection (b).”.

1 (b) CLERICAL AMENDMENT.—The table of contents
 2 in the first section of that Act is amended by striking the
 3 item relating to section 105B and inserting the following
 4 new items:

“Sec. 105B. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources.

“Sec. 105C. Protection of the operational files of the National Imagery and Mapping Agency.”.

5 **SEC. 302. FOREIGN TERRORIST ASSET TRACKING CENTER.**

6 (a) REPORT ON RECONFIGURATION.—Not later than
 7 February 1, 2002, the Director of Central Intelligence and
 8 the Secretary of the Treasury shall jointly submit to Con-
 9 gress a report on the feasibility and desirability of re-
 10 configuring the Foreign Asset Tracking Center and the
 11 Office of Foreign Assets Control of the Department of the
 12 Treasury in order to establish a capability to provide for
 13 the effective and efficient analysis and dissemination of
 14 foreign intelligence relating to the financial capabilities
 15 and resources of international terrorist organizations.

16 (b) REPORT REQUIREMENTS.—(1) In preparing the
 17 report under subsection (a), the Secretary and the Direc-
 18 tor shall consider whether, and to what extent, the capac-
 19 ities and resources of the Financial Crimes Enforcement
 20 Center of the Department of the Treasury may be inte-
 21 grated into the capability contemplated by the report.

22 (2) If the Secretary and the Director determine that
 23 it is feasible and desirable to undertake the reconfigura-

1 tion described in subsection (a) in order to establish the
2 capability described in that subsection, the Secretary and
3 the Director shall include with the report under that sub-
4 section a detailed proposal for legislation to achieve the
5 reconfiguration.

6 **SEC. 303. NATIONAL VIRTUAL TRANSLATION CENTER.**

7 (a) REQUIREMENT.—(1) Commencing not later than
8 180 days after the date of the enactment of this Act, the
9 Director of Central Intelligence shall, in consultation with
10 the Director of the Federal Bureau of Investigation, estab-
11 lish and maintain within the intelligence community an
12 element for purposes of providing timely and accurate
13 translations of foreign intelligence for all other elements
14 of the intelligence community. The element shall be known
15 as the “National Virtual Translation Center”.

16 (2) The element established and maintained under
17 paragraph (1) shall make use of state-of-the-art commu-
18 nications technology, integrate existing translation capa-
19 bilities in the intelligence community, and utilize remote-
20 connection capacities so as to minimize the need for a cen-
21 tral physical facility for the element.

22 (b) RESOURCES.—In establishing and maintaining
23 the element required by subsection (a), the Director of
24 Central Intelligence shall—

1 (1) assign the element a staff of individuals
2 possessing a broad range of linguistic and trans-
3 lation skills appropriate for the purposes of the ele-
4 ment;

5 (2) provide the element communications capa-
6 bilities and systems that are commensurate with the
7 most current and sophisticated communications ca-
8 pabilities and systems available to other elements of
9 intelligence community;

10 (3) ensure, to the maximum extent practicable,
11 that the communications capabilities and systems
12 provided the element under paragraph (2) are com-
13 patible with communications capabilities and sys-
14 tems utilized by the Federal Bureau of Investigation
15 in securing timely and accurate translations of for-
16 eign language materials for law enforcement inves-
17 tigations; and

18 (4) develop a communications infrastructure to
19 ensure the efficient and secure use of the translation
20 capabilities of the element.

21 (c) **SECURE COMMUNICATIONS.**—The Director of
22 Central Intelligence shall ensure that the element estab-
23 lished and maintained under subsection (a) has secure
24 electronic communications with the other elements of the
25 intelligence community.

1 (d) DEFINITIONS.—In this section:

2 (1) FOREIGN INTELLIGENCE.—The term “for-
3 eign intelligence” has the meaning given that term
4 in section 3(2) of the National Security Act of 1947
5 (50 U.S.C. 401a(2)).

6 (2) ELEMENT OF THE INTELLIGENCE COMMU-
7 NITY.—The term “element of the intelligence com-
8 munity” means any element of the intelligence com-
9 munity specified or designated under section 3(4) of
10 the National Security Act of 1947 (50 U.S.C.
11 401a(4)).

12 **SEC. 304. TRAINING OF GOVERNMENT OFFICIALS REGARD-**
13 **ING IDENTIFICATION AND USE OF FOREIGN**
14 **INTELLIGENCE.**

15 (a) PROGRAM REQUIRED.—The Attorney General
16 shall, in consultation with the Director of Central Intel-
17 ligence, carry out a program to provide appropriate train-
18 ing to officials described in subsection (b) in order to as-
19 sist such officials in—

20 (1) identifying foreign intelligence information
21 in the course of their duties; and

22 (2) utilizing foreign intelligence information in
23 the course of their duties, to the extent that the uti-
24 lization of such information is appropriate for such
25 duties.

1 (b) OFFICIALS.—The officials provided training
2 under subsection (a) are, at the discretion of the Attorney
3 General and the Director, the following:

4 (1) Officials of the Federal Government who
5 are not ordinarily engaged in the collection, dissemi-
6 nation, and use of foreign intelligence in the per-
7 formance of their duties.

8 (2) Officials of State and local governments
9 who encounter, or may encounter in the course of a
10 terrorist event, foreign intelligence in the perform-
11 ance of their duties.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
13 hereby authorized to be appropriated for the Department
14 of Justice such sums as may be necessary for purposes
15 of carrying out the program required by subsection (a).

○