

OCA FILE Jay

12 May 1988
OCA 88-1510

MEMORANDUM FOR: Deputy Director for Compensation, Automation
 and Planning/OP
 Director of Equal Employment Opportunity/OP .
 Deputy General Counsel
 Chief, Management Law Division/OGC

STAT

FROM: [redacted] Legislation Division
 Office of Congressional Affairs

SUBJECT: Reporting of Minorities Provision in FY89
 Intelligence Authorization Bill

1. The House Permanent Select Committee on Intelligence has included in its version of the FY89 Intelligence Authorization Bill a requirement that a report be filed with the intelligence committees setting forth minority group representation within the Agency as well as a plan to rectify any underrepresentation. Interim reports describing corrective efforts are to be filed periodically until 1991.

STAT

2. Attached is a copy of the provision as well as report language interpreting it. Should you have any questions, please telephone me [redacted]

Attachment

STAT

OCA/LEG [redacted] (12 May 1988)

Distribution:

Original - Addressees

1 - D/OCA

1 - DDL/OCA

1 - [redacted] (Liaison)

STAT

1 - OCA Registry

1 - OCA/Leg/Subject File: EEO

1 - OCA/Leg/Subject File: Congressional Oversight

1 - RH Signer

1 - OCA Read

100TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 100-591
Part 1

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR
1989

APRIL 29, 1988.—Ordered to be printed

Mr. STOKES, from the Permanent Select Committee on Intelligence,
submitted the following

REPORT

[To accompany H.R. 4387]

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.

The amendment is as follows:

On page 8, after line 6, insert the following:

EQUAL EMPLOYMENT OPPORTUNITY PLAN

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1 of 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of

19-006

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 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

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, experience 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