

115TH CONGRESS
1ST SESSION

H. R. 700

To amend section 552 of title 5, United States Code, to apply the requirements of the Freedom of Information Act to the National Security Council, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mrs. WALORSKI introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend section 552 of title 5, United States Code, to apply the requirements of the Freedom of Information Act to the National Security Council, 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.**

4 This Act may be cited as the “Transparency in Na-
5 tional Security Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The National Security Council (NSC) is
2 mandated by statute to advise the President with re-
3 spect to the integration of domestic, foreign, and
4 military policies relating to the national security and
5 to perform such other functions as the President
6 may direct.

7 (2) The NSC maintained an active Freedom of
8 Information Act (FOIA) program and responded to
9 requests under Presidents Ford, Carter, Reagan,
10 and George H.W. Bush.

11 (3) The 1996 case that eliminated the FOIA re-
12 quirement for the NSC, *Armstrong v. Executive Of-*
13 *fice of the President*, concluded that the NSC does
14 not exercise sufficiently independent authority.

15 (4) In the 20 years since the *Armstrong* case,
16 former Secretaries and Cabinet officials, including
17 Leon Panetta and Robert Gates, have spoken out
18 concerning the increasing centralization of power at
19 the White House, and the NSC in particular.

20 (5) The Obama Administration issued Presi-
21 dential Policy Directive 1 on February 13, 2009,
22 which established the roles and responsibilities for
23 the NSC and established the National Security Advi-
24 sor as the principal advisor to the President.

1 (6) The NSC has grown 20 times in size since
2 the 1960s and now has approximately 400 employ-
3 ees.

4 (7) The NSC's growth has accelerated in the
5 recent administrations, the NSC doubled in size to
6 approximately 100 under President Clinton, the
7 NSC doubled in size again to approximately 200
8 under President George W. Bush, and has doubled
9 again under President Obama to nearly 400 employ-
10 ees.

11 (8) Successive administrations have shifted the
12 NSC's role beyond coordinating and advising as was
13 intended by the National Security Act of 1947 and
14 now use the NSC as the final approval for military
15 operations as well.

16 (9) General Norton Schwartz, former Chief of
17 Staff of the Air Force stated, "The NSC should not
18 be activists. They should have a limited, if any role,
19 in execution."

20 (10) Brent Scowcroft, National Security Advi-
21 sor to Presidents Ford and George H.W. Bush stat-
22 ed, "The basic rule is that you shouldn't have so
23 many people that you can duplicate the work of the
24 departments."

1 (11) The Presidential Records Act has been ap-
2 plied to the NSC, given the NSC’s growing auton-
3 omy and level of responsibilities, the NSC should in-
4 stead follow the disclosure requirements of the FOIA
5 and be obligated to preserve its records in accord-
6 ance with the Federal Records Act.

7 **SEC. 3. APPLICATION OF THE FREEDOM OF INFORMATION**
8 **ACT TO THE NATIONAL SECURITY COUNCIL.**

9 Section 552(f)(1) of title 5, United States Code (com-
10 monly referred to as the Freedom of Information Act),
11 is amended by inserting “and the National Security Coun-
12 cil” after the “Executive Office of the President”.

13 **SEC. 4. APPLICATION.**

14 The amendment made by section 3 shall apply with
15 respect to any record created by the National Security
16 Council before, on, or after the date of the enactment of
17 this Act.

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