

1 **SEC. __. AUTHORITY OF ARMY COUNTERINTELLIGENCE AGENTS.**

2 (a) AUTHORITY TO EXECUTE WARRANTS AND MAKE ARRESTS.—Section 7377 of title
3 10, United States Code, is amended—

4 (1) in the section heading, by inserting “**and the Army Counterintelligence**
5 **Command**” before the colon; and

6 (2) in subsection (b)—

7 (A) by striking “any employee of the Department of the Army who is”
8 and inserting the following: “any employee of the Department of the Army—
9 “(1) who is”;

10 (B) in paragraph (1) (as so designated) by striking the period at the end
11 and inserting “; or”; and

12 (C) by adding at the end the following new paragraph:

13 “(2) who is a special agent of the Army Counterintelligence Command (or a
14 successor to that command) whose duties include conducting, supervising, or
15 coordinating counterintelligence investigations involving potential or alleged
16 violations punishable under chapter 37, 113B, or 115 of title 18 and similar offenses
17 punishable under this title.”.

18 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 747 of
19 such title is amended by striking the item relating to section 7377 and inserting the following
20 new item:

“7377. Civilian special agents of the Criminal Investigation Command and the Army Counterintelligence
Command: authority to execute warrants and make arrests.”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how
the legislative text would amend existing law.]**

Section-by-Section Analysis

This proposal seeks a legislative change to provide Army Counterintelligence civilian special agents with the same statutory authorities to serve warrants and arrest criminal suspects as the Air Force's Office of Special Investigations (OSI) and the Naval Criminal Investigative Service (NCIS) when conducting counterintelligence (CI) investigations.

CI investigations focus on violations of criminal law that pose significant threats to the national security of the United States, such as espionage, sabotage, assassination, international terrorism, and other national security crimes. The Department of Defense (DoD) Military Department Counterintelligence Organizations (MDCOs) include: Army CI (ACI), Air Force's Office of Special Investigations (OSI), and the Naval Criminal Investigative Service (NCIS).

In accordance with an agreement between the Department of Justice and the DoD, the MDCOs are the only DoD units authorized to conduct CI investigations. The MDCOs work with the Federal Bureau of Investigation (FBI) to conduct CI investigations in accordance with a memorandum of agreement between the Attorney General and the Secretary of Defense and a memorandum of understanding between the FBI and DoD. OSI and NCIS have specific statutory authority to execute warrants and make arrests in sections 8750 and 9377 of title 10, United States Code. This proposal will specifically authorize civilian special agents of the Army Counterintelligence Command to execute warrants and make arrests when conducting CI investigations and will provide them the same authorities exercised by AFOSI and NCIS, when conducting CI investigations.

Army Counterintelligence Command plays a critical role in the mitigation of the Foreign Intelligence Entities (FIE) threats by conducting CI investigations that may result in criminal prosecutions. The number of espionage investigations conducted by the Army has risen rapidly as foreign adversaries aggressively target the Army to erode our competitive overmatch. ACI must aggressively protect critical United States, DoD, and Army critical infrastructure, technologies, current and future warfighting systems, networks, and supply chains from FIE.

The authority to serve warrants and arrest individuals suspected of committing crimes that may cause damage to the national security of the United States are important authorities for Army CI civilian special agents to utilize in their efforts to conduct CI investigations. Without legislative change, the Army will lack the same statutory authorities as the other MDCOs that conduct these types of criminal investigations in concert with the FBI, which may negatively affect the Army's ability to mitigate FIE threats.

Resource Information: This proposal has no significant impact on the use of resources. Resources affected by this proposal are incidental in nature and amount and are included within the Fiscal Year (FY) 2023 President's Budget request.

Changes to Existing Law: This proposal would make the following changes to Section 7377 of title 10, United States Code:

§7377. Civilian special agents of the Criminal Investigation Command and the Army Counterintelligence Command: authority to execute warrants and make arrests

(a) AUTHORITY.—The Secretary of the Army may authorize any Department of the Army civilian employee described in subsection (b) to have the same authority to execute and serve warrants and other processes issued under the authority of the United States and to make arrests without a warrant as may be authorized under section 1585a of this title for special agents of the Defense Criminal Investigative Service.

(b) AGENTS TO HAVE AUTHORITY—Subsection (a) applies to any employee of the Department of the Army—

(1) who is a special agent of the Army Criminal Investigation Command (or a successor to that command) whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of the Army; or

(2) who is a special agent of the Army Counterintelligence Command (or a successor to that command) whose duties include conducting, supervising, or coordinating counterintelligence investigations involving potential or alleged violations punishable under chapter 37, 113B, or 115 of title 18 and similar offenses punishable under this title.

(c) GUIDELINES FOR EXERCISE OF AUTHORITY.—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of the Army and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Army, the Secretary of Defense, or the Attorney General.

1 **SEC. ____ . APPLICATION OF ACQUISITION DEMONSTRATION PROJECT TO**
2 **DEPARTMENT OF THE AIR FORCE EMPLOYEES ASSIGNED TO**
3 **SUPPORT UNITED STATES STRATEGIC COMMAND AND UNITED**
4 **STATES SPACE COMMAND ENTERPRISES.**

5 (a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at
6 the end the following new section:

7 **“§1599j. Application of acquisition demonstration project to Department of the Air Force**
8 **employees assigned to support United States Strategic Command and United**
9 **States Space Command enterprises**

10 “(a) IN GENERAL.—For the purposes of the demonstration project authorized by section
11 1762 of this title, the Secretary of Defense may apply the provisions of such section, as in effect
12 on the date of the enactment of this section, including any regulations, procedures, waivers, or
13 guidance implementing such section, to an employee of the Department of the Air Force
14 assigned to support United States Strategic Command or United States Space Command, or a
15 subordinate component command or center, as if the employee was a member of the acquisition
16 workforce.

17 “(b) NUMBER OF PARTICIPANTS.—Employees participating in the program authorized
18 under this section shall not be subject to the limitation on the number of participants contained in
19 section 1762(c) of this title.

20 “(c) TERMINATION OF AUTHORITY.—The authority to conduct the program authorized
21 under this section shall terminate on December 31, 2026.”.

22 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is
23 amended by adding at the end the following new item:

“1599j. Application of acquisition demonstration project to Department of the Air Force employees assigned to support United States Strategic Command and United States Space Command enterprises.”

Section-by-Section Analysis

Today’s global strategic environment presents complex challenges to deterring adversary aggression and coercion. State and non-State actors are conducting subversive and destabilizing actions below the levels of armed conflict in all domains to advance their own long-term security goals, reshape the world in their favor, and deny and/or degrade the ability of the United States to defend our own national interests. In today’s threat environment, strategic deterrence remains the bedrock of our national defense. Every operational plan across the Department of Defense (DoD) begins with the assumption that strategic deterrence will hold. A safe, secure, and effective nuclear force, enabled by space-based assets, remains the most credible combination of capabilities to deter strategic attack and execute our national strategy. As a result, our adversaries are expanding threats and integrating conventional, nuclear, space, electromagnetic spectrum, and cyber operations to field an unprecedented range of capabilities and create challenges that require a renewed emphasis on deterrence across the continuum from competition to conflict. United States Strategic Command (USSTRATCOM) and United States Space Command (USSPACECOM) continue to be called on to out-think, out-maneuver, out-partner, and out-innovate our adversaries to guarantee freedom of action and ensure our Nation’s plans operate as designed.

In order to answer our Nation’s call to counter these challenges, both USSTRATCOM and USSPACECOM need to grow intellectual capital. Strategic deterrence and our space capabilities enable every facet of society and are central to the American way of life. Our joint teams require the ability to build an agile workforce with the skillsets demanded by today’s ever changing security environment, but lacks the ability to achieve this goal currently. The ability to seek out and provide avenues to attract and retain top talent is an essential mission requirement for both USSTRATCOM and USSPACECOM.

Just as we must revise our systems and processes, we must also develop the most critical component of our enterprise – our warfighters. USSTRATCOM and USSPACECOM are laying the foundation for a warfighting organization and are reinforcing a spirit of excellence, character, and resolve. In so doing, we will promote coordination across the entire enterprise and empower our warfighters to act decisively and win. This proposal will allow USSTRATCOM and USSPACECOM to leverage a personnel system with proven success to recruit and retain the best and brightest while allowing the Commands to compete with the private sector, including think tanks and information technology organizations, in hiring highly technical personnel to support our global missions. USSTRATCOM has previously lost highly skilled technical personnel to industry due to our inflexible personnel system and has struggled to make timely job offers to highly qualified individuals across a number of disciplines. USSPACECOM is competing for talent in an ever growing private space enterprise whose human resources systems are much faster and more responsive than the Federal Government’s systems. This personnel system would eliminate grade-specific determination issues and would help our Commands quickly flex to meet ever-changing requirements in a strategic environment that is in a constant state of flux. Additionally, there are mechanisms in this proposed personnel system that would help our

strategic deterrence mission significantly, such as the delegated compensation, voluntarily emeritus programs, and scholastic achievement programs.

This proposal allows the Department to focus on transformational human capital activities in defense of the Nation, specifically focusing on bringing in new and non-traditional talent to help the Department tackle long-standing problems and propel our workforce into the 21st Century. Authorizing USSTRATCOM and USSPACECOM to leverage the DoD Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo) moves us towards achieving our goal of being the home to the critical mass of the Nation’s intellectual capital on strategic deterrence and will help set the stage for the future of civilian personnel management in the Department.

Resource Information: The resources affected by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2023 President’s Budget request. These costs will only be realized if USSTRATCOM and USSPACECOM fully convert to this new system.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Air Force Civilian Pay (USSTRATCOM)	\$0.84	\$0.24	\$0.24	\$0.25		AF O&M (3400)	1	3400-F-01-20-015D	N/A
Air Force Civilian Pay (USSPACECOM)	\$0.56	\$0.07	\$0.04	\$0.05		AF O&M (3400)	1	010300000 13C/13C; 010500000 15X/15X	N/A
Total	\$1.40	\$0.31	\$0.28	\$0.30					

Cost Methodology: Cost expense is based on an Air Force (AF) projection for an AcqDemo conversion utilizing currently in place personnel with an effective August 2022 conversion date in FY2023. Additional out year expense shown is the projected 0.1% cost increase for AcqDemo vs General Schedule for FY2023-FY2027. Base personnel costs are already programmed across the Future Years Defense Program (FYDP) and are not included in the costs.

PERSONNEL IMPACT (END STRENGTH OR FTES)									
Program	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Air Force (USSTRATCOM)	1095					Civilian Personnel, Air Force		N/A	N/A

Air Force (USSPACECOM)	520	62	35			Civilian Personnel, Air Force		N/A	N/A
Total	1615	62	35						

Personnel Methodology: Number of personnel is based on an AF personnel database run conducted by SAF/AQ (AF AcqDemo Program Office) against USSTRATCOM and USSPACECOM HQ's assigned PASCOCODES on 4 May 2021 for personnel currently on board. This number also includes vacancies (positions) projected to be funded across the FYDP.

Changes to Existing Law: This proposal adds a new section to chapter 81 of title 10, United States Code, as set forth in the legislative text above.