

Presidential Documents

Title 3—

Executive Order 13388 of October 25, 2005

The President

Further Strengthening the Sharing of Terrorism Information To Protect Americans

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), and in order to further strengthen the effective conduct of United States counterterrorism activities and protect the territory, people, and interests of the United States of America, including against terrorist attacks, it is hereby ordered as follows:

Section 1. Policy. To the maximum extent consistent with applicable law, agencies shall, in the design and use of information systems and in the dissemination of information among agencies:

(a) give the highest priority to (i) the detection, prevention, disruption, preemption, and mitigation of the effects of terrorist activities against the territory, people, and interests of the United States of America; (ii) the interchange of terrorism information among agencies; (iii) the interchange of terrorism information between agencies and appropriate authorities of State, local, and tribal governments, and between agencies and appropriate private sector entities; and (iv) the protection of the ability of agencies to acquire additional such information; and

(b) protect the freedom, information privacy, and other legal rights of Americans in the conduct of activities implementing subsection (a).

Sec. 2. Duties of Heads of Agencies Possessing or Acquiring Terrorism Information. To implement the policy set forth in section 1 of this order, the head of each agency that possesses or acquires terrorism information:

(a) shall promptly give access to the terrorism information to the head of each other agency that has counterterrorism functions, and provide the terrorism information to each such agency, unless otherwise directed by the President, and consistent with (i) the statutory responsibilities of the agencies providing and receiving the information; (ii) any guidance issued by the Attorney General to fulfill the policy set forth in subsection 1(b) of this order; and (iii) other applicable law, including sections 102A(g) and (i) of the National Security Act of 1947, section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (including any policies, procedures, guidelines, rules, and standards issued pursuant thereto), sections 202 and 892 of the Homeland Security Act of 2002, Executive Order 12958 of April 17, 1995, as amended, and Executive Order 13311 of July 29, 2003; and

(b) shall cooperate in and facilitate production of reports based on terrorism information with contents and formats that permit dissemination that maximizes the utility of the information in protecting the territory, people, and interests of the United States.

Sec. 3. Preparing Terrorism Information for Maximum Distribution. To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the common standards for the sharing of terrorism information established pursuant to section 3 of Executive Order 13356 of August 27, 2004, shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 4. Requirements for Collection of Terrorism Information Inside the United States. To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the recommendations regarding the establishment of executive branch-wide collection and sharing requirements, procedures, and guidelines for terrorism information collected within the United States made pursuant to section 4 of Executive Order 13356 shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 5. Establishment and Functions of Information Sharing Council. (a) Consistent with section 1016(g) of the Intelligence Reform and Terrorism Prevention Act of 2004, there is hereby established an Information Sharing Council (Council), chaired by the Program Manager to whom section 1016 of such Act refers, and composed exclusively of designees of: the Secretaries of State, the Treasury, Defense, Commerce, Energy, and Homeland Security; the Attorney General; the Director of National Intelligence; the Director of the Central Intelligence Agency; the Director of the Office of Management and Budget; the Director of the Federal Bureau of Investigation; the Director of the National Counterterrorism Center; and such other heads of departments or agencies as the Director of National Intelligence may designate.

(b) The mission of the Council is to (i) provide advice and information concerning the establishment of an interoperable terrorism information sharing environment to facilitate automated sharing of terrorism information among appropriate agencies to implement the policy set forth in section 1 of this order; and (ii) perform the duties set forth in section 1016(g) of the Intelligence Reform and Terrorism Prevention Act of 2004.

(c) To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the plan for establishment of a proposed interoperable terrorism information sharing environment reported under section 5(c) of Executive Order 13356 shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 6. Definitions. As used in this order:

(a) the term “agency” has the meaning set forth for the term “executive agency” in section 105 of title 5, United States Code, together with the Department of Homeland Security, but includes the Postal Rate Commission and the United States Postal Service and excludes the Government Accountability Office; and

(b) the term “terrorism information” has the meaning set forth for such term in section 1016(a)(4) of the Intelligence Reform and Terrorism Prevention Act of 2004.

Sec. 7. General Provisions. (a) This order:

(i) shall be implemented in a manner consistent with applicable law, including Federal law protecting the information privacy and other legal rights of Americans, and subject to the availability of appropriations;

(ii) shall be implemented in a manner consistent with the authority of the principal officers of agencies as heads of their respective agencies, including under section 199 of the Revised Statutes (22 U.S.C. 2651), section 201 of the Department of Energy Organization Act (42 U.S.C. 7131), section 103 of the National Security Act of 1947 (50 U.S.C. 403–3), section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 1501 of title 15, 503 of title 28, and 301(b) of title 31, United States Code;

(iii) shall be implemented consistent with the Presidential Memorandum of June 2, 2005, on “Strengthening Information Sharing, Access, and Integration—Organizational, Management, and Policy Development Structures for Creating the Terrorism Information Sharing Environment;”

(iv) shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals; and

(v) shall be implemented in a manner consistent with section 102A of the National Security Act of 1947.

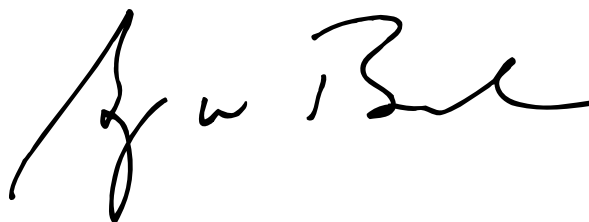
(b) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

Sec. 8. Amendments and Revocation. (a) Executive Order 13311 of July 29, 2003, is amended:

(i) by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof in each such place “Director of National Intelligence”; and

(ii) by striking “103(c)(7)” and inserting in lieu thereof “102A(i)(1)”.

(b) Executive Order 13356 of August 27, 2004, is hereby revoked.



THE WHITE HOUSE,
October 25, 2005.