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(Pub. L. 110–53, title XVIII, § 1842, Aug. 3, 2007, 121 Stat. 500.)

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CODIFICATION

Chapter is comprised of act July 26, 1947, ch. 343, 61 Stat. 495, the National Security Act of 1947, which was formerly classified principally as part of chapter 15 of this title, prior to editorial reclassification and renumbering as chapter 44 of this title. For complete classification of the National Security Act of 1947, see Tables.

§ 3001. Short title

This chapter may be cited as the ''National Security Act of 1947''.

(July 26, 1947, ch. 343, § 1, 61 Stat. 495.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified as a note under section 401 of this title prior to editorial reclassification as this section.

CHANGE OF NAME

Pub. L. 108–458, title I, § 1081, Dec. 17, 2004, 118 Stat. 3696, provided that:

''(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF INTELLIGENCE COMMUNITY.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of National Intelligence.

''(b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF CIA.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

''(c) COMMUNITY MANAGEMENT STAFF.—Any reference to the Community Management Staff in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of the Office of the Director of National Intelligence.''

EFFECTIVE DATE OF 2004 AMENDMENT; TRANSITION PROVISIONS

Pub. L. 108–458, title I, subtitle H, Dec. 17, 2004, 118 Stat. 3697, as amended by Pub. L. 109–13, div. A, title I, § 1009, May 11, 2005, 119 Stat. 244, provided that:

''SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF.

''(a) TRANSFER.—There shall be transferred to the Office of the Director of National Intelligence such staff of the Community Management Staff as of the date of the enactment of this Act [Dec. 17, 2004] as the Director of National Intelligence determines to be appropriate, including all functions and activities discharged by the Community Management Staff as of that date.

''(b) ADMINISTRATION.—The Director of National Intelligence shall administer the Community Management Staff after the date of the enactment of this Act [Dec. 17, 2004] as a component of the Office of the Director of National Intelligence under section 103 of the National Security Act of 1947 [50 U.S.C. 3025], as amended by section 1011(a) of this Act.

''SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

''(a) TRANSFER.—There shall be transferred to the National Counterterrorism Center the Terrorist Threat Integration Center (TTIC) or its successor entity, including all functions and activities discharged by the Terrorist Threat Integration Center or its successor entity as of the date of the enactment of this Act [Dec. 17, 2004].

''(b) ADMINISTRATION.—The Director of the National Counterterrorism Center shall administer the Terrorist Threat Integration Center after the date of the enactment of this Act [Dec. 17, 2004] as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 119(i) of the National Security Act of 1947 [50 U.S.C. 3056(i)], as added by section 1021(a) [1021] of this Act.

''SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

''(a) TERMINATION.—The positions referred to in subsection (b) are hereby abolished.

''(b) COVERED POSITIONS.—The positions referred to in this subsection are as follows:

''(1) The Assistant Director of Central Intelligence for Collection.

''(2) The Assistant Director of Central Intelligence for Analysis and Production.

''(3) The Assistant Director of Central Intelligence for Administration.

''SEC. 1094. IMPLEMENTATION PLAN.

''The President shall transmit to Congress a plan for the implementation of this title [see Tables for classification] and the amendments made by this title. The plan shall address, at a minimum, the following:

''(1) The transfer of personnel, assets, and obligations to the Director of National Intelligence pursuant to this title.

''(2) Any consolidation, reorganization, or streamlining of activities transferred to the Director of National Intelligence pursuant to this title.

''(3) The establishment of offices within the Office of the Director of National Intelligence to implement the duties and responsibilities of the Director of National Intelligence as described in this title.

''(4) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations to be transferred to the Director of National Intelligence.

''(5) Recommendations for additional legislative or administrative action as the President considers appropriate.

''SEC. 1095. DIRECTOR OF NATIONAL INTELLIGENCE REPORT ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

''(a) REPORT.—Not later than one year after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see below], the Director of National Intelligence shall submit to the congressional intelligence committees a report on the progress made in the implementation of this title [see Tables for classification], including the amendments made by this title. The report shall include a comprehensive description of the progress made, and may include such recommendations for additional legislative or administrative action as the Director considers appropriate.

''(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means—

''(1) the Select Committee on Intelligence of the Senate; and

''(2) the Permanent Select Committee on Intelligence of the House of Representatives.

''SEC. 1096. TRANSITIONAL AUTHORITIES.

''(a) IN GENERAL.—Upon the request of the Director of National Intelligence, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to the Director of National Intelligence.

''(b) TRANSFER OF PERSONNEL.—In addition to any other authorities available under law for such purposes, in the fiscal years 2005 and 2006, the Director of National Intelligence—

''(1) is authorized within the Office of the Director of National Intelligence the total of 500 new personnel positions; and

''(2) with the approval of the Director of the Office of Management and Budget, may detail not more than 150 personnel funded within the National Intelligence Program to the Office of the Director of National Intelligence for a period of not more than 2 years.

''SEC. 1097. EFFECTIVE DATES.

''(a) IN GENERAL.—Except as otherwise expressly provided in this Act [see Tables for classification], this title [see Tables for classification] and the amendments made by this title shall take effect not later than six months after the date of the enactment of this Act [Dec. 17, 2004] [For determination by the President that certain sections of title I of Pub. L. 108–458 take effect earlier than six months after the date of enactment, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note below.].

''(b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later than 60 days after the date of the appointment of the first Director of National Intelligence, the Director of National Intelligence shall first appoint individuals to positions within the Office of the Director of National Intelligence.

''(B) Subparagraph (A) shall not apply with respect to the Principal Deputy Director of National Intelligence.

''(2) Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see above], the President shall transmit to Congress the implementation plan required by section 1094.

''(3) Not later than one year after the date of the enactment of this Act [Dec. 17, 2004], the Director of National Intelligence shall prescribe regulations, policies, procedures, standards, and guidelines required under section 102A of the National Security Act of 1947 [50 U.S.C. 3024], as amended by section 1011(a) of this Act.''

[Functions of President under section 1094 of Pub. L. 108–458, set out in a note above, assigned to the Director of National Intelligence by section 3 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of Title 3, The President.]

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–235, § 1, Dec. 28, 2012, 126 Stat. 1626, provided that: ''This Act [amending provisions set out as a note under section 3161 of this title] may be cited as the 'Public Interest Declassification Board Reauthorization Act of 2012'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–458, § 1(a), Dec. 17, 2004, 118 Stat. 3638, provided that: ''This Act [see Tables for classification] may be cited as the 'Intelligence Reform and Terrorism Prevention Act of 2004'.''

Pub. L. 108–458, title I, § 1001, Dec. 17, 2004, 118 Stat. 3643, provided that: ''This title [see Tables for classification] may be cited as the 'National Security Intelligence Reform Act of 2004'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–293, title VIII, § 801, Oct. 11, 1996, 110 Stat. 3474, provided that: ''This title [see Tables for classification] may be cited as the 'Intelligence Renewal and Reform Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–359, title VIII, § 801, Oct. 14, 1994, 108 Stat. 3434, provided that: ''This title [see Tables for classification] may be cited as the 'Counterintelligence and Security Enhancements Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–496, title VII, § 701, Oct. 24, 1992, 106 Stat. 3188, provided that: ''This title [see Tables for classification] may be cited as the 'Intelligence Organization Act of 1992'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–477, § 1, Oct. 15, 1984, 98 Stat. 2209, provided: ''That this Act [see Tables for classification] may be cited as the 'Central Intelligence Agency Information Act'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–200, § 1, June 23, 1982, 96 Stat. 122, provided: ''That this Act [see Tables for classification] may be cited as the 'Intelligence Identities Protection Act of 1982'.''

SHORT TITLE OF 1949 AMENDMENT

Act Aug. 10, 1949, ch. 412, § 1, 63 Stat. 578, provided that: ''This Act [see Tables for classification] may be

cited as the 'National Security Act Amendments of 1949'.''

Sections of National Security Act of 1947, which were classified to former Title 5, were repealed and restated in Title 10, Armed Forces, except as noted, as follows:

Section of former Title 5	*Section of Title 10*
171	131, 133.
171a(a), (b)	133.
171a(c)	125, 136, 141, 3010, 3012, 5011, 5031, 8010, 8012.
171a(d)	133.
171a(e)	132.
171a(f)	133.
171a(g)–(i)	[Omitted].
171a(j)	124.
171c	134, 135, 136, 718, 2358.
171c–1, 171c–2	[Repealed].
171d	1580.
171e	171.
171f	141, 142.
171g	143.
171h	2201.
171i	2351.
171j	173.
172	136.
172a	3014, 5061, 8014.
172b	2203.
172c	2204.
172d	2208.
172e	2209.
172f	126.
172g	2205.
172h	2206.
172i	2701.
181–1	101, 3011, 3012, 3062, T. 50 § 409.
181–2	3012.
411a(a)	101; T. 50 § 409.
411a(b)	5012.
411a(c)	5013, 5402.
626(a)	8012.
626(b)	[Repealed].
626(c)	101; T. 50 § 409.
626(d)	8013.
626(e)	8012.
626(f)	8033.
626(g)	8011.
626a	8012.
626b	8013.
626c	743, 8062.

SAVINGS PROVISIONS

Pub. L. 108–487, title VIII, § 803, Dec. 23, 2004, 118 Stat. 3962, provided that:

''(a) HEAD OF INTELLIGENCE COMMUNITY.—(1) During the period beginning on the date of the enactment of this Act [Dec. 23, 2004] and ending on the date of the appointment of the Director of National Intelligence [Apr. 21, 2005] under section 102 of the National Security Act of 1947, as amended by section 1011(a) of the National Security Intelligence Reform Act of 2004 [50 U.S.C. 3023], the Director of Central Intelligence may, acting as the head of the intelligence community, discharge the functions and authorities provided in this Act, and the amendments made by this Act [see Effective Date of 2004 Amendments note set out under section 2656f of Title 22, Foreign Relations and Intercourse], to the Director of National Intelligence.

''(2) During the period referred to in paragraph (1) any reference in this Act or the amendments made by this Act to the Director of National Intelligence shall be considered to be a reference to the Director of Central Intelligence, as the head of the intelligence community.

''(3) Upon the appointment of an individual as Director of National Intelligence under section 102 of the National Security Act of 1947, as so amended, any reference in this Act, or in the classified annex to accompany this Act, to the Director of Central Intelligence as head of the intelligence community shall be deemed to be a reference to the Director of National Intelligence.

''(b) HEAD OF CENTRAL INTELLIGENCE AGENCY.—(1) During the period beginning on the date of the enactment of this Act [Dec. 23, 2004] and ending on the date of the appointment of the Director of the Central Intelligence Agency under section 104A of the National Security Act of 1947, as amended by section 1011(a) of the National Security Intelligence Reform Act of 2004 [50 U.S.C. 3036], the Director of Central Intelligence may, acting as the head of the Central Intelligence Agency, discharge the functions and authorities provided in this Act, and the amendments made by this Act, to the Director of the Central Intelligence Agency.

''(2) Upon the appointment of an individual as Director of the Central Intelligence Agency under section 104A of the National Security Act of 1947, as so amended, any reference in this Act, or in the classified annex to accompany this Act, to the Director of Central Intelligence as head of the Central Intelligence Agency shall be deemed to be a reference to the Director of the Central Intelligence Agency.''

Act Aug. 10, 1949, ch. 412, § 12(g), 63 Stat. 591, provided: ''All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act [see Tables for classification], have the same effect as if this Act had not been enacted; but, after the effective date of this Act [Aug. 10, 1949], any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force.''

SEPARABILITY

Pub. L. 108–458, title I, § 1103, Dec. 17, 2004, 118 Stat. 3700, provided that: ''If any provision of this Act [see Tables for classification], or an amendment made by this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other those to which such provision is held invalid shall not be affected thereby.''

CONSTRUCTION OF REFERENCES TO DIRECTOR OF CENTRAL INTELLIGENCE

Pub. L. 108–487, title VIII, § 802, Dec. 23, 2004, 118 Stat. 3962, provided that: ''Except as otherwise specifically provided or otherwise provided by context, any reference in this Act [see Effective Date of 2004 Amendments note set out under section 2656f of Title 22, Foreign Relations and Intercourse], or in the classified annex to accompany this Act, to the Director of Central Intelligence shall be deemed to be a reference to the Director of Central Intelligence as head of the intelligence community.''

CHARTER FOR THE NATIONAL RECONNAISSANCE OFFICE

Pub. L. 111–84, div. A, title X, § 1035, Oct. 28, 2009, 123 Stat. 2450, provided that: ''Not later than February 1, 2010, the Director of National Intelligence and the Secretary of Defense shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate

a revised charter for the National Reconnaissance Office (in this section referred to as the 'NRO'). The charter shall include the following:

''(1) The organizational and governance structure of the NRO.

''(2) The role of the NRO in the development and generation of requirements and acquisition.

''(3) The scope of the capabilities of the NRO.

''(4) The roles and responsibilities of the NRO and the relationship of the NRO to other organizations and agencies in the intelligence and defense communities.''

INCORPORATION OF REPORTING REQUIREMENTS

Pub. L. 108–177, title I, § 106, Dec. 13, 2003, 117 Stat. 2604, provided that:

''(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill H.R. 2417 of the One Hundred Eighth Congress [enacted as Pub. L. 108–177], or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

''(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means—

''(1) the Select Committee on Intelligence of the Senate; and

''(2) the Permanent Select Committee on Intelligence of the House of Representatives.''

Similar provisions were contained in Pub. L. 107–306, title I, § 108, Nov. 27, 2002, 116 Stat. 2388.

NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

Pub. L. 111–259, title VII, § 701(a)(3), Oct. 7, 2010, 124 Stat. 2745, provided that: ''The membership of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community established under subsection (a) of section 1002 of such Act (Public Law 107–306; 50 U.S.C. 401 note) [now 50 U.S.C. 3001 note, set out below] (referred to in this section [enacting and amending provisions set out below] as the 'Commission') shall be considered vacant and new members shall be appointed in accordance with such section 1002, as amended by this section.''

Pub. L. 107–306, title X, Nov. 27, 2002, 116 Stat. 2437, as amended by Pub. L. 108–177, title III, § 315(a), Dec. 13, 2003, 117 Stat. 2610; Pub. L. 111–259, title VII, § 701(a)(1), (4), (b)(3), (c), Oct. 7, 2010, 124 Stat. 2744, 2745; Pub. L. 112–277, title V, § 502, Jan. 14, 2013, 126 Stat. 2476, provided that:

''SEC. 1001. FINDINGS.

''Congress makes the following findings:

''(1) Research and development efforts under the purview of the intelligence community are vitally important to the national security of the United States.

''(2) The intelligence community must operate in a dynamic, highly-challenging environment, characterized by rapid technological growth, against a growing number of hostile, technically-sophisticated threats. Research and development programs under the purview of the intelligence community are critical to ensuring that intelligence agencies, and their personnel, are provided with important technological capabilities to detect, characterize, assess, and ultimately counter the full range of threats to the national security of the United States.

''(3) There is a need to review the full range of current research and development programs under the purview of the intelligence community, evaluate such programs against the scientific and technological fields judged to be of most importance, and articulate program and resource priorities for future research and development activities to ensure a unified and coherent research and development program across the entire intelligence community.

''SEC. 1002. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

''(a) ESTABLISHMENT.—There is established a commission to be known as the 'National Commission for the Review of the Research and Development Programs of the United States Intelligence Community' (in this title referred to as the 'Commission').

''(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

''(1) The Principal Deputy Director of National Intelligence.

''(2) A senior intelligence official of the Office of the Secretary of Defense, as designated by the Secretary of Defense.

''(3) Three members appointed by the majority leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.

''(4) Two members appointed by the minority leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.

''(5) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.

''(6) Two members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.

''(c) MEMBERSHIP.—(1) The individuals appointed from private life as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—

''(A) research and development programs;

''(B) technology discovery and insertion;

''(C) use of intelligence information by national policymakers and military leaders; or

''(D) the implementation, funding, or oversight of the national security policies of the United States.

''(2) An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

''(3) All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

''(d) CO-CHAIRS.—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.

''(2) One co-chair of the Commission shall be a member of the Democratic Party, and one co-chair shall be a member of the Republican Party.

''(3) The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives.

''(e) APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act [Nov. 27, 2002].

''(2) The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.

''(f) MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.

''(2) Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.

''(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

''(4) If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act [Nov. 27, 2002], a quorum shall consist of a majority of the members of the Commission as of such day.

''(g) ACTIONS OF COMMISSION.—(1) The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.

''(2) The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

''(3) Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.

''(h) DUTIES.—The duties of the Commission shall be—

''(1) to conduct, until not later than the date on which the Commission submits the report under section 1007(a), the review described in subsection (i); and

''(2) to submit to the congressional intelligence committees, the Director of National Intelligence, and the Secretary of Defense a final report on the results of the review.

''(i) REVIEW.—The Commission shall review the status of research and development programs and activities within the intelligence community, including advanced research and development programs and activities. Such review shall include—

''(1) an assessment of the advisability of modifying the scope of research and development for purposes of such programs and activities;

''(2) a review of the particular individual research and development activities under such programs;

''(3) an evaluation of the current allocation of resources for research and development, including whether the allocation of such resources for that purpose should be modified;

''(4) an identification of the scientific and technological fields judged to be of most importance to the intelligence community;

''(5) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of other departments and agencies of the Federal Government; and

''(6) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of the private sector.

''SEC. 1003. POWERS OF COMMISSION.

''(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

''(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

''(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member considers necessary.

''(2) Subpoenas may be issued under subparagraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.

''(3) The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of a witness to comply with any subpoena or to testify when summoned under authority of this section.

''(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

''(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

''(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Director of National Intelligence shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission's duties under this title.

''(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

''(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

''(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

''(e) PROHIBITION ON WITHHOLDING INFORMATION.—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

''(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

''(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

''SEC. 1004. STAFF OF COMMISSION.

''(a) IN GENERAL.—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

''(2) Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the

rights, status, and privileges of his or her regular employment without interruption.

''(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

''(b) CONSULTANT SERVICES.—(1) The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

''(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

''SEC. 1005. COMPENSATION AND TRAVEL EXPENSES.

''(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this title.

''(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Commission.

''(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

''SEC. 1006. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.

''(a) IN GENERAL.—(1) The Director of National Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

''(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

''(b) ACCESS AFTER TERMINATION OF COMMISSION.—Notwithstanding any other provision of law, after the termination of the Commission under section 1007, only the Members and designated staff of the congressional intelligence committees, the Director of National Intelligence (and the designees of the Director), and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

''SEC. 1007. FINAL REPORT; TERMINATION.

''(a) FINAL REPORT.—Not later than March 31, 2013, the Commission shall submit to the congressional intelligence committees, the Director of National Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

''(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.

''(2) The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to Congress concerning the final report referred to in that paragraph and disseminating the report.

''SEC. 1008. ASSESSMENTS OF FINAL REPORT.

''Not later than 60 days after receipt of the final report under section 1007(a), the Director of National Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

''SEC. 1009. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.

''(a) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

''(b) FREEDOM OF INFORMATION ACT.—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

''[SEC. 1010. Repealed. Pub. L. 111–259, title VII, § 701(b)(3), Oct. 7, 2010, 124 Stat. 2745.]

''SEC. 1011. DEFINITIONS.

''In this title:

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].''

[Pub. L. 111–259, title VII, § 701(a)(1), Oct. 7, 2010, 124 Stat. 2744, provided that the amendment made by section 701(a)(1) of Pub. L. 111–259 [amending Pub. L. 107–306, § 1007(a), set out above] is effective on the date on which funds are first appropriated pursuant to section 701(b)(1) of Pub. L. 111–259 [124 Stat. 2745] and subject to section 701(a)(3) of Pub. L. 111–259 [set out above].]

[Pub. L. 111–259, title VII, § 701(a)(2), Oct. 7, 2010, 124 Stat. 2745, provided that: ''The amendment made by paragraph (1) [amending Pub. L. 107–306, § 1007(a), set out above] shall take effect as if included in the enactment of such section 1007.'']

[Pub. L. 108–177, title III, § 315(b), Dec. 13, 2003, 117 Stat. 2610, provided that: ''The amendment made by subsection (a) [amending Pub. L. 107–306, § 1007, set out above] shall take effect as if included in the enactment of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 [Pub. L. 107–306].''']

NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE

Pub. L. 106–120, title VII, Dec. 3, 1999, 113 Stat. 1620, established the National Commission for the Review of the National Reconnaissance Office to review the current organization, practices, and authorities of the National Reconnaissance Office, directed the Commission to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on such review not later than Nov. 1, 2000, provided that the Commission would terminate at the end of the 120-day period beginning on the date on which the final report was transmitted to the congressional intelligence committees, and directed the Director of Central Intelligence and the Secretary of Defense to each submit to the congressional intelligence committees an assessment of the final report not later than 60 days after receipt.

COMMISSION ON ROLES AND CAPABILITIES OF UNITED STATES INTELLIGENCE COMMUNITY

Pub. L. 103–359, title IX, Oct. 14, 1994, 108 Stat. 3456, related to establishment, composition, duties, reports, powers, payment of expenses, and termination, not later than Mar. 1, 1996, of the Commission on the Roles

and Capabilities of the United States Intelligence Community.

NATIONAL COMMISSION ON DEFENSE AND NATIONAL SECURITY

Pub. L. 101–511, title VIII, § 8104, Nov. 5, 1990, 104 Stat. 1898, as amended by Pub. L. 102–172, title VIII, § 8078, Nov. 26, 1991, 105 Stat. 1189, provided that:

''SECTION 1. This section establishes the National Commission on Defense and National Security.

''SEC. 2. FINDINGS.

''The Congress makes the following findings:

''(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

''(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

''(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

''(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

''(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

''(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

''(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

''SEC. 3. ESTABLISHMENT.

''There is established a commission to be known as [the] National Commission on Defense and National Security (hereinafter in this Act referred to as the 'Commission'). The Commission is established until 30 days following submission of the final report required by section 6 of this section.

''SEC. 4. DUTIES OF COMMISSION.

''(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

''(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

''(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

''(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

''(A) the developments in Eastern Europe and the Soviet Union;

''(B) the question of German unification;

''(C) the future of NATO and European economic integration;

''(D) the future of the Pacific Basin; and

''(E) potential instability resulting from regional conflicts or economic problems in the developing world.

''(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

''(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

''(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

''SEC. 5. MEMBERSHIP.

''(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

''(1) Three appointed by the President.

''(2) Three appointed by the Speaker of the House of Representatives.

''(3) One appointed by the minority leader of the House of Representatives.

''(4) Two appointed by the majority leader of the Senate.

''(5) One appointed by the minority leader of the Senate.

''(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

''(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(d) BASIC PAY.—Members of the Commission shall serve without pay.

''(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

''(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

''(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

''(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act [Nov. 5, 1990].

''SEC. 6. REPORTS.

''(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

''(b) FINAL REPORT.—The Commission shall transmit to the President and to Congress a final report one year following submission of the initial report under subsection (a).

''(c) CONTENTS OF REPORTS.—The report under subsection (b) shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Such report shall include a comprehensive description and discussion of the matters set forth in section 4.

''(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

''(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

''SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

''(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code,

have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–18 of the General Schedule.

''(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

''(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

''SEC. 8. POWERS OF COMMISSION

''(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

''(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

''(c) OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Chairman may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.

''(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''SEC. 9. INITIAL FUNDING OF COMMISSION.

''If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.''

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

INTELLIGENCE PRIORITIES AND REORGANIZATION

Pub. L. 101–510, div. A, title IX, § 907, Nov. 5, 1990, 104 Stat. 1622, required the Secretary of Defense and Director of Central Intelligence to conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities programs and the National Foreign Intelligence Program and reduce by not less than 5 percent the number of personnel detailed to such programs during each of fiscal years 1992 through 1996.

CHANGE OF TITLES OF SECRETARY OF DEFENSE, ET AL.; REAPPOINTMENT

Act Aug. 10, 1949, ch. 412, § 12(f), 63 Stat. 591, provided in part that: ''The titles of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretaries and the Assistant Secretaries of the Departments of the Army, Navy, and Air Force, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, shall not be changed by virtue of this Act [see Tables for classification] and the reappointment of the officials holding such titles on the effective date of this Act [Aug. 10, 1949] shall not be required.''

REORGANIZATION PLAN NO. 8 OF 1949

Act Aug. 10, 1949, ch. 412, § 12(i), 63 Stat. 592, provided that: ''Reorganization Plan Numbered 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949 [set out in Appendix to Title 5, Government Organization and Employees] pursuant to the provisions of the Reorganization Act of 1949, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.''

EX. ORD. NO. 10431. NATIONAL SECURITY MEDAL

Ex. Ord. No. 10431, Jan. 19, 1953, 18 F.R. 437, provided:

1. There is hereby established a medal to be known as the National Security Medal with accompanying ribbons and appurtenances. The medal and its appurtenances shall be of appropriate design, approved by the Executive Secretary of the National Security Council.

2. The National Security Medal may be awarded to any person, without regard to nationality, including members of the armed forces of the United States, for distinguished achievement or outstanding contribution on or after July 26, 1947, in the field of intelligence relating to the national security.

3. The decoration established by this order shall be awarded by the President of the United States or, under regulations approved by him, by such person or persons as he may designate.

4. No more than one National Security Medal shall be awarded to any one person, but for subsequent services justifying an award, a suitable device may be awarded to be worn with the Medal.

5. Members of the armed forces of the United States who are awarded the decoration established by this order are authorized to wear the medal and the ribbon symbolic of the award, as may be authorized by uniform regulations approved by the Secretary of Defense.

6. The decoration established by this order may be awarded posthumously.

REGULATIONS GOVERNING THE AWARD OF THE NATIONAL SECURITY MEDAL

Pursuant to Paragraph 2 of Executive Order 10431, the following regulations are hereby issued to govern the award of the National Security Medal:

1. The National Security Medal may be awarded to any person without regard to nationality, including a member of the Armed Forces of the United States, who, on or after 26 July 1947, has made an outstanding contribution to the National intelligence effort. This contribution may consist of either exceptionally meritorious service performed in a position of high responsibility or of an act of valor requiring personal courage of a high degree and complete disregard of personal safety.

2. The National Security Medal with accompanying ribbon and appurtenances, shall be of appropriate design to be approved by the Executive Secretary of the National Security Council.

3. The National Security Medal shall be awarded only by the President or his designee for that purpose.

4. Recommendations may be submitted to the Executive Secretary of the National Security Council by any individual having personal knowledge of the facts of the exceptionally meritorious conduct or act of valor of the candidate in the performance of outstanding services, either as an eyewitness or from the testimony of others who have personal knowledge or were eyewitnesses. Any recommendations shall be accompanied by complete documentation, including where necessary, certificates, affidavits or sworn transcripts of testimony. Each recommendation for an award shall show the exact status, at the time of the rendition of the service on which the recommendation is based, with respect to citizenship, employment, and all other material factors, of the person who is being recommended for the National Security Medal.

5. Each recommendation shall contain a draft of an appropriate citation to accompany the award of the National Security Medal.

EXECUTIVE ORDER NO. 11905

Ex. Ord. No. 11905, Feb. 18, 1976, 41 F.R. 7703, as amended by Ex. Ord. No. 11985, May 13, 1977, 42 F.R. 25487; Ex. Ord. No. 11994, June 1, 1977, 42 F.R. 28869, which related to United States foreign intelligence activities, was superseded by Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, formerly set out below.

EXECUTIVE ORDER NO. 12036

Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, as amended by Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, which related to United States foreign intelligence activities, was revoked by Ex. Ord. No. 12333, §3.6, Dec. 4, 1981, 46 F.R. 59954, prior to Ex. Ord. No. 12333 being amended by Ex. Ord. No. 13470, §4(j), July 30, 2008, 73 F.R. 45341.

FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

For provisions relating to the exercise of certain authority respecting foreign intelligence electronic surveillance, see Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, set out under section 1802 of this title.

EX. ORD. NO. 12333. UNITED STATES INTELLIGENCE ACTIVITIES

Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, as amended by Ex. Ord. No. 13284, §18, Jan. 23, 2003, 68 F.R. 4077; Ex. Ord. No. 13355, §§2, 3, 6, Aug. 27, 2004, 69 F.R. 53593; Ex. Ord. No. 13470, §§1–4, July 30, 2008, 73 F.R. 45325, provided:

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Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including the National Security Act of 1947, as amended (Act) [50 U.S.C. 3001 et seq.], and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

PART 1—GOALS, DIRECTIONS, DUTIES, AND RESPONSIBILITIES WITH RESPECT TO UNITED STATES INTELLIGENCE EFFORTS

1.1 GOALS

The United States intelligence effort shall provide the President, the National Security Council, and the Homeland Security Council with the necessary information on which to base decisions concerning the development and conduct of foreign, defense, and economic policies, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) All means, consistent with applicable Federal law and this order, and with full consideration of the rights of United States persons, shall be used to obtain reliable intelligence information to protect the United States and its interests.

(b) The United States Government has a solemn obligation, and shall continue in the conduct of intelligence activities under this order, to protect fully the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by Federal law.

(c) Intelligence collection under this order should be guided by the need for information to respond to intelligence priorities set by the President.

(d) Special emphasis should be given to detecting and countering:

(1) Espionage and other threats and activities directed by foreign powers or their intelligence services against the United States and its interests;

(2) Threats to the United States and its interests from terrorism; and

(3) Threats to the United States and its interests from the development, possession, proliferation, or use of weapons of mass destruction.

(e) Special emphasis shall be given to the production of timely, accurate, and insightful reports, responsive to decisionmakers in the executive branch, that draw on all appropriate sources of information, including open source information, meet rigorous analytic standards, consider diverse analytic viewpoints, and accurately represent appropriate alternative views.

(f) State, local, and tribal governments are critical partners in securing and defending the United States from terrorism and other threats to the United States and its interests. Our national intelligence effort should take into account the responsibilities and requirements of State, local, and tribal governments and, as appropriate, private sector entities, when undertaking the collection and dissemination of information and intelligence to protect the United States.

(g) All departments and agencies have a responsibility to prepare and to provide intelligence in a manner that allows the full and free exchange of information, consistent with applicable law and presidential guidance.

1.2 THE NATIONAL SECURITY COUNCIL

(a) *Purpose*. The National Security Council (NSC) shall act as the highest ranking executive branch entity that provides support to the President for review of, guidance for, and direction to the conduct of all foreign intelligence, counterintelligence, and covert action, and attendant policies and programs.

(b) *Covert Action and Other Sensitive Intelligence Operations*. The NSC shall consider and submit to the President a policy recommendation, including all dissents, on each proposed covert action and conduct a periodic review of ongoing covert action activities, including an evaluation of the effectiveness and consistency with current national policy of such activities and consistency with applicable legal requirements. The NSC shall perform such other functions related to covert action as the President may direct, but shall not undertake the conduct of covert actions. The NSC shall also review proposals for other sensitive intelligence operations.

1.3 DIRECTOR OF NATIONAL INTELLIGENCE

Subject to the authority, direction, and control of the President, the Director of National Intelligence (Director) shall serve as the head of the Intelligence Community, act as the principal adviser to the President, to the NSC, and to the Homeland Security Council for intelligence matters related to national secu-

rity, and shall oversee and direct the implementation of the National Intelligence Program and execution of the National Intelligence Program budget. The Director will lead a unified, coordinated, and effective intelligence effort. In addition, the Director shall, in carrying out the duties and responsibilities under this section, take into account the views of the heads of departments containing an element of the Intelligence Community and of the Director of the Central Intelligence Agency.

(a) Except as otherwise directed by the President or prohibited by law, the Director shall have access to all information and intelligence described in section 1.5(a) of this order. For the purpose of access to and sharing of information and intelligence, the Director:

(1) Is hereby assigned the function under section 3(5) of the Act, to determine that intelligence, regardless of the source from which derived and including information gathered within or outside the United States, pertains to more than one United States Government agency; and

(2) Shall develop guidelines for how information or intelligence is provided to or accessed by the Intelligence Community in accordance with section 1.5(a) of this order, and for how the information or intelligence may be used and shared by the Intelligence Community. All guidelines developed in accordance with this section shall be approved by the Attorney General and, where applicable, shall be consistent with guidelines issued pursuant to section 1016 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458) (IRTPA).

(b) In addition to fulfilling the obligations and responsibilities prescribed by the Act, the Director:

(1) Shall establish objectives, priorities, and guidance for the Intelligence Community to ensure timely and effective collection, processing, analysis, and dissemination of intelligence, of whatever nature and from whatever source derived;

(2) May designate, in consultation with affected heads of departments or Intelligence Community elements, one or more Intelligence Community elements to develop and to maintain services of common concern on behalf of the Intelligence Community if the Director determines such services can be more efficiently or effectively accomplished in a consolidated manner;

(3) Shall oversee and provide advice to the President and the NSC with respect to all ongoing and proposed covert action programs;

(4) In regard to the establishment and conduct of intelligence arrangements and agreements with foreign governments and international organizations:

(A) May enter into intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations;

(B) Shall formulate policies concerning intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations; and

(C) Shall align and synchronize intelligence and counterintelligence foreign relationships among the elements of the Intelligence Community to further United States national security, policy, and intelligence objectives;

(5) Shall participate in the development of procedures approved by the Attorney General governing criminal drug intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(6) Shall establish common security and access standards for managing and handling intelligence systems, information, and products, with special emphasis on facilitating:

(A) The fullest and most prompt access to and dissemination of information and intelligence practicable, assigning the highest priority to detecting, preventing, preempting, and disrupting terrorist threats and activities against the United States, its interests, and allies; and

(B) The establishment of standards for an interoperable information sharing enterprise that facilitates the sharing of intelligence information among elements of the Intelligence Community;

(7) Shall ensure that appropriate departments and agencies have access to intelligence and receive the support needed to perform independent analysis;

(8) Shall protect, and ensure that programs are developed to protect, intelligence sources, methods, and activities from unauthorized disclosure;

(9) Shall, after consultation with the heads of affected departments and agencies, establish guidelines for Intelligence Community elements for:

(A) Classification and declassification of all intelligence and intelligence-related information classified under the authority of the Director or the authority of the head of a department or Intelligence Community element; and

(B) Access to and dissemination of all intelligence and intelligence-related information, both in its final form and in the form when initially gathered, to include intelligence originally classified by the head of a department or Intelligence Community element, except that access to and dissemination of information concerning United States persons shall be governed by procedures developed in accordance with Part 2 of this order;

(10) May, only with respect to Intelligence Community elements, and after consultation with thehead [sic] of the originating Intelligence Community element or the head of the originating department, declassify, or direct the declassification of, information or intelligence relating to intelligence sources, methods, and activities. The Director may only delegate this authority to the Principal Deputy Director of National Intelligence;

(11) May establish, operate, and direct one or more national intelligence centers to address intelligence priorities;

(12) May establish Functional Managers and Mission Managers, and designate officers or employees of the United States to serve in these positions.

(A) Functional Managers shall report to the Director concerning the execution of their duties as Functional Managers, and may be charged with developing and implementing strategic guidance, policies, and procedures for activities related to a specific intelligence discipline or set of intelligence activities; set training and tradecraft standards; and ensure coordination within and across intelligence disciplines and Intelligence Community elements and with related non-intelligence activities. Functional Managers may also advise the Director on: the management of resources; policies and procedures; collection capabilities and gaps; processing and dissemination of intelligence; technical architectures; and other issues or activities determined by the Director.

(i) The Director of the National Security Agency is designated the Functional Manager for signals intelligence;

(ii) The Director of the Central Intelligence Agency is designated the Functional Manager for human intelligence; and

(iii) The Director of the National Geospatial-Intelligence Agency is designated the Functional Manager for geospatial intelligence.

(B) Mission Managers shall serve as principal substantive advisors on all or specified aspects of intelligence related to designated countries, regions, topics, or functional issues;

(13) Shall establish uniform criteria for the determination of relative priorities for the transmission of critical foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such communications;

(14) Shall have ultimate responsibility for production and dissemination of intelligence produced by the Intelligence Community and authority to levy analytic tasks on intelligence production organizations within the Intelligence Community, in consultation with the heads of the Intelligence Community elements concerned;

(15) May establish advisory groups for the purpose of obtaining advice from within the Intelligence Community to carry out the Director's responsibilities, to include Intelligence Community executive management committees composed of senior Intelligence Community leaders. Advisory groups shall consist of representatives from elements of the Intelligence Community, as designated by the Director, or other executive branch departments, agencies, and offices, as appropriate;

(16) Shall ensure the timely exploitation and dissemination of data gathered by national intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government elements, including military commands;

(17) Shall determine requirements and priorities for, and manage and direct the tasking, collection, analysis, production, and dissemination of, national intelligence by elements of the Intelligence Community, including approving requirements for collection and analysis and resolving conflicts in collection requirements and in the tasking of national collection assets of Intelligence Community elements (except when otherwise directed by the President or when the Secretary of Defense exercises collection tasking authority under plans and arrangements approved by the Secretary of Defense and the Director);

(18) May provide advisory tasking concerning collection and analysis of information or intelligence relevant to national intelligence or national security to departments, agencies, and establishments of the United States Government that are not elements of the Intelligence Community; and shall establish procedures, in consultation with affected heads of departments or agencies and subject to approval by the Attorney General, to implement this authority and to monitor or evaluate the responsiveness of United States Government departments, agencies, and other establishments;

(19) Shall fulfill the responsibilities in section 1.3(b)(17) and (18) of this order, consistent with applicable law and with full consideration of the rights of United States persons, whether information is to be collected inside or outside the United States;

(20) Shall ensure, through appropriate policies and procedures, the deconfliction, coordination, and integration of all intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program. In accordance with these policies and procedures:

(A) The Director of the Federal Bureau of Investigation shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities inside the United States;

(B) The Director of the Central Intelligence Agency shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities outside the United States;

(C) All policies and procedures for the coordination of counterintelligence activities and the clandestine collection of foreign intelligence inside the United States shall be subject to the approval of the Attorney General; and

(D) All policies and procedures developed under this section shall be coordinated with the heads of affected departments and Intelligence Community elements;

(21) Shall, with the concurrence of the heads of affected departments and agencies, establish joint procedures to deconflict, coordinate, and synchronize intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program, with intelligence activities, activities that involve foreign intelligence and security services, or activities that involve the use of clandestine methods, conducted by other United States Government departments, agencies, and establishments;

(22) Shall, in coordination with the heads of departments containing elements of the Intelligence Community, develop procedures to govern major system acquisitions funded in whole or in majority part by the National Intelligence Program;

(23) Shall seek advice from the Secretary of State to ensure that the foreign policy implications of proposed intelligence activities are considered, and shall ensure, through appropriate policies and procedures, that intelligence activities are conducted in a manner consistent with the responsibilities pursuant to law and presidential direction of Chiefs of United States Missions; and

(24) Shall facilitate the use of Intelligence Community products by the Congress in a secure manner.

(c) The Director's exercise of authorities in the Act and this order shall not abrogate the statutory or other responsibilities of the heads of departments of the United States Government or the Director of the Central Intelligence Agency. Directives issued and actions taken by the Director in the exercise of the Director's authorities and responsibilities to integrate, coordinate, and make the Intelligence Community more effective in providing intelligence related to national security shall be implemented by the elements of the Intelligence Community, provided that any department head whose department contains an element of the Intelligence Community and who believes that a directive or action of the Director violates the requirements of section 1018 of the IRTPA or this subsection shall bring the issue to the attention of the Director, the NSC, or the President for resolution in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments.

(d) Appointments to certain positions.

(1) The relevant department or bureau head shall provide recommendations and obtain the concurrence of the Director for the selection of: the Director of the National Security Agency, the Director of the National Reconnaissance Office, the Director of the National Geospatial-Intelligence Agency, the Under Secretary of Homeland Security for Intelligence and Analysis, the Assistant Secretary of State for Intelligence and Research, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury, and the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation. If the Director does not concur in the recommendation, the department head may not fill the vacancy or make the recommendation to the President, as the case may be. If the department head and the Director do not reach an agreement on the selection or recommendation, the Director and the department head concerned may advise the President directly of the Director's intention to withhold concurrence.

(2) The relevant department head shall consult with the Director before appointing an individual to fill a vacancy or recommending to the President an individual be nominated to fill a vacancy in any of the following positions: the Under Secretary of Defense for Intelligence; the Director of the Defense Intelligence Agency; uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps above the rank of Major General or Rear Admiral; the Assistant Commandant of the Coast Guard for Intelligence; and the Assistant Attorney General for National Security.

(e) Removal from certain positions.

(1) Except for the Director of the Central Intelligence Agency, whose removal the Director may recommend to the President, the Director and the relevant department head shall consult on the removal, or recommendation to the President for removal, as the case may be, of: the Director of the National Security Agency, the Director of the National Geospatial-Intelligence Agency, the Director of the Defense Intelligence Agency, the Under Secretary of Homeland Security for Intelligence and Analysis, the Assistant Secretary of State for Intelligence and Research, and the Assistant Secretary for Intelligence and Analysis of the Depart-

ment of the Treasury. If the Director and the department head do not agree on removal, or recommendation for removal, either may make a recommendation to the President for the removal of the individual.

(2) The Director and the relevant department or bureau head shall consult on the removal of: the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Director of the National Reconnaissance Office, the Assistant Commandant of the Coast Guard for Intelligence, and the Under Secretary of Defense for Intelligence. With respect to an individual appointed by a department head, the department head may remove the individual upon the request of the Director; if the department head chooses not to remove the individual, either the Director or the department head may advise the President of the department head's intention to retain the individual. In the case of the Under Secretary of Defense for Intelligence, the Secretary of Defense may recommend to the President either the removal or the retention of the individual. For uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps, the Director may make a recommendation for removal to the Secretary of Defense.

(3) Nothing in this subsection shall be construed to limit or otherwise affect the authority of the President to nominate, appoint, assign, or terminate the appointment or assignment of any individual, with or without a consultation, recommendation, or concurrence.

1.4 THE INTELLIGENCE COMMUNITY

Consistent with applicable Federal law and with the other provisions of this order, and under the leadership of the Director, as specified in such law and this order, the Intelligence Community shall:

(a) Collect and provide information needed by the President and, in the performance of executive functions, the Vice President, the NSC, the Homeland Security Council, the Chairman of the Joint Chiefs of Staff, senior military commanders, and other executive branch officials and, as appropriate, the Congress of the United States;

(b) In accordance with priorities set by the President, collect information concerning, and conduct activities to protect against, international terrorism, proliferation of weapons of mass destruction, intelligence activities directed against the United States, international criminal drug activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(c) Analyze, produce, and disseminate intelligence;

(d) Conduct administrative, technical, and other support activities within the United States and abroad necessary for the performance of authorized activities, to include providing services of common concern for the Intelligence Community as designated by the Director in accordance with this order;

(e) Conduct research, development, and procurement of technical systems and devices relating to authorized functions and missions or the provision of services of common concern for the Intelligence Community;

(f) Protect the security of intelligence related activities, information, installations, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Intelligence Community elements as are necessary;

(g) Take into account State, local, and tribal governments' and, as appropriate, private sector entities' information needs relating to national and homeland security;

(h) Deconflict, coordinate, and integrate all intelligence activities and other information gathering in accordance with section 1.3(b)(20) of this order; and

(i) Perform such other functions and duties related to intelligence activities as the President may direct.

1.5 DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES

The heads of all departments and agencies shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Provide all programmatic and budgetary information necessary to support the Director in developing the National Intelligence Program;

(c) Coordinate development and implementation of intelligence systems and architectures and, as appropriate, operational systems and architectures of their departments, agencies, and other elements with the Director to respond to national intelligence requirements and all applicable information sharing and security guidelines, information privacy, and other legal requirements;

(d) Provide, to the maximum extent permitted by law, subject to the availability of appropriations and not inconsistent with the mission of the department or agency, such further support to the Director as the Director may request, after consultation with the head of the department or agency, for the performance of the Director's functions;

(e) Respond to advisory tasking from the Director under section 1.3(b)(18) of this order to the greatest extent possible, in accordance with applicable policies established by the head of the responding department or agency;

(f) Ensure that all elements within the department or agency comply with the provisions of Part 2 of this order, regardless of Intelligence Community affiliation, when performing foreign intelligence and counterintelligence functions;

(g) Deconflict, coordinate, and integrate all intelligence activities in accordance with section 1.3(b)(20), and intelligence and other activities in accordance with section 1.3(b)(21) of this order;

(h) Inform the Attorney General, either directly or through the Federal Bureau of Investigation, and the Director of clandestine collection of foreign intelligence and counterintelligence activities inside the United States not coordinated with the Federal Bureau of Investigation;

(i) Pursuant to arrangements developed by the head of the department or agency and the Director of the Central Intelligence Agency and approved by the Director, inform the Director and the Director of the Central Intelligence Agency, either directly or through his designee serving outside the United States, as appropriate, of clandestine collection of foreign intelligence collected through human sources or through human-enabled means outside the United States that has not been coordinated with the Central Intelligence Agency; and

(j) Inform the Secretary of Defense, either directly or through his designee, as appropriate, of clandestine collection of foreign intelligence outside the United States in a region of combat or contingency military operations designated by the Secretary of Defense, for purposes of this paragraph, after consultation with the Director of National Intelligence.

1.6 HEADS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY

The heads of elements of the Intelligence Community shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Report to the Attorney General possible violations of Federal criminal laws by employees and of specified Federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department, agency, or establishment concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(c) Report to the Intelligence Oversight Board, consistent with Executive Order 13462 of February 29, 2008, and provide copies of all such reports to the Director, concerning any intelligence activities of their elements that they have reason to believe may be unlawful or contrary to executive order or presidential directive;

(d) Protect intelligence and intelligence sources, methods, and activities from unauthorized disclosure in accordance with guidance from the Director;

(e) Facilitate, as appropriate, the sharing of information or intelligence, as directed by law or the President, to State, local, tribal, and private sector entities;

(f) Disseminate information or intelligence to foreign governments and international organizations under intelligence or counterintelligence arrangements or agreements established in accordance with section 1.3(b)(4) of this order;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of information or intelligence resulting from criminal drug intelligence activities abroad if they have intelligence responsibilities for foreign or domestic criminal drug production and trafficking; and

(h) Ensure that the inspectors general, general counsels, and agency officials responsible for privacy or civil liberties protection for their respective organizations have access to any information or intelligence necessary to perform their official duties.

1.7 INTELLIGENCE COMMUNITY ELEMENTS

Each element of the Intelligence Community shall have the duties and responsibilities specified below, in addition to those specified by law or elsewhere in this order. Intelligence Community elements within executive departments shall serve the information and intelligence needs of their respective heads of departments and also shall operate as part of an integrated Intelligence Community, as provided in law or this order.

(a) THE CENTRAL INTELLIGENCE AGENCY. The Director of the Central Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence;

(2) Conduct counterintelligence activities without assuming or performing any internal security functions within the United States;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover and proprietary arrangements;

(4) Conduct covert action activities approved by the President. No agency except the Central Intelligence Agency (or the Armed Forces of the United States in time of war declared by the Congress or during any period covered by a report from the President to the Congress consistent with the War Powers Resolution, Public Law 93–148) may conduct any covert action activity unless the President determines that another agency is more likely to achieve a particular objective;

(5) Conduct foreign intelligence liaison relationships with intelligence or security services of foreign governments or international organizations consistent with section 1.3(b)(4) of this order;

(6) Under the direction and guidance of the Director, and in accordance with section 1.3(b)(4) of this order, coordinate the implementation of intelligence and counterintelligence relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments or international organizations; and

(7) Perform such other functions and duties related to intelligence as the Director may direct.

(b) THE DEFENSE INTELLIGENCE AGENCY. The Director of the Defense Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions;

(2) Collect, analyze, produce, or, through tasking and coordination, provide defense and defense-related intelligence for the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, combatant commanders, other Defense components, and non-Defense agencies;

(3) Conduct counterintelligence activities;

(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover and proprietary arrangements;

(5) Conduct foreign defense intelligence liaison relationships and defense intelligence exchange programs with foreign defense establishments, intelligence or security services of foreign governments, and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order;

(6) Manage and coordinate all matters related to the Defense Attaché system; and

(7) Provide foreign intelligence and counterintelligence staff support as directed by the Secretary of Defense.

(c) THE NATIONAL SECURITY AGENCY. The Director of the National Security Agency shall:

(1) Collect (including through clandestine means), process, analyze, produce, and disseminate signals intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Establish and operate an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense, after coordination with the Director;

(3) Control signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements;

(5) Provide signals intelligence support for national and departmental requirements and for the conduct of military operations;

(6) Act as the National Manager for National Security Systems as established in law and policy, and in this capacity be responsible to the Secretary of Defense and to the Director;

(7) Prescribe, consistent with section 102A(g) of the Act, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling, and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the National Security Agency, and exercise the necessary supervisory control to ensure compliance with the regulations; and

(8) Conduct foreign cryptologic liaison relationships in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(d) THE NATIONAL RECONNAISSANCE OFFICE. The Director of the National Reconnaissance Office shall:

(1) Be responsible for research and development, acquisition, launch, deployment, and operation of overhead systems and related data processing facilities to collect intelligence and information to support national and departmental missions and other United States Government needs; and

(2) Conduct foreign liaison relationships relating to the above missions, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(e) THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY. The Director of the National Geospatial-Intelligence Agency shall:

(1) Collect, process, analyze, produce, and disseminate geospatial intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Provide geospatial intelligence support for national and departmental requirements and for the conduct of military operations;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements; and

(4) Conduct foreign geospatial intelligence liaison relationships, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(f) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS. The Commanders and heads of the intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps shall:

(1) Collect (including through clandestine means), produce, analyze, and disseminate defense and defense-related intelligence and counterintelligence to support departmental requirements, and, as appropriate, national requirements;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct military intelligence liaison relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(g) INTELLIGENCE ELEMENTS OF THE FEDERAL BUREAU OF INVESTIGATION. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the intelligence elements of the Federal Bureau of Investigation shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions, in accordance with procedural guidelines approved by the Attorney General, after consultation with the Director;

(2) Conduct counterintelligence activities; and

(3) Conduct foreign intelligence and counterintelligence liaison relationships with intelligence, security, and law enforcement services of foreign governments or international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(h) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE COAST GUARD. The Commandant of the Coast Guard shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence including defense and defense-related information and intelligence to support national and departmental missions;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct foreign intelligence liaison relationships and intelligence exchange programs with foreign intelligence services, security services or international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and, when operating as part of the Department of Defense, 1.10(i) of this order.

(i) THE BUREAU OF INTELLIGENCE AND RESEARCH, DEPARTMENT OF STATE; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY; THE OFFICE OF NATIONAL SECURITY INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY; AND THE OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE, DEPARTMENT OF ENERGY. The heads of the Bureau of Intelligence and Research, Department of State; the Office of Intelligence and Analysis, Department of the Treasury; the Office of National Security Intelligence, Drug Enforcement Administration; the Office of Intelligence and Analysis, Department of Homeland Security; and the Office of Intelligence and Counterintelligence, Department of Energy shall:

(1) Collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support national and departmental missions; and

(2) Conduct and participate in analytic or information exchanges with foreign partners and international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(j) THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. The Director shall collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support the missions of the Office of the Director of National Intelligence, including the National Counterterrorism Center, and to support other national missions.

1.8 THE DEPARTMENT OF STATE

In addition to the authorities exercised by the Bureau of Intelligence and Research under sections 1.4 and 1.7(i) of this order, the Secretary of State shall:

(a) Collect (overtly or through publicly available sources) information relevant to United States foreign policy and national security concerns;

(b) Disseminate, to the maximum extent possible, reports received from United States diplomatic and consular posts;

(c) Transmit reporting requirements and advisory taskings of the Intelligence Community to the Chiefs of United States Missions abroad; and

(d) Support Chiefs of United States Missions in discharging their responsibilities pursuant to law and presidential direction.

1.9 THE DEPARTMENT OF THE TREASURY

In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of the Treasury under sections 1.4 and 1.7(i) of this order the Secretary of the Treasury shall collect (overtly or through publicly available sources) foreign financial information and, in consultation with the Department of State, foreign economic information.

1.10 THE DEPARTMENT OF DEFENSE

The Secretary of Defense shall:

(a) Collect (including through clandestine means), analyze, produce, and disseminate information and intelligence and be responsive to collection tasking and advisory tasking by the Director;

(b) Collect (including through clandestine means), analyze, produce, and disseminate defense and defense-related intelligence and counterintelligence, as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental, and tactical intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components and coordinate counterintelligence activities in accordance with section 1.3(b)(20) and (21) of this order;

(e) Act, in coordination with the Director, as the executive agent of the United States Government for signals intelligence activities;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director, within the United States Government;

(g) Carry out or contract for research, development, and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, information, property, and em-

ployees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain defense intelligence relationships and defense intelligence exchange programs with selected cooperative foreign defense establishments, intelligence or security services of foreign governments, and international organizations, and ensure that such relationships and programs are in accordance with sections 1.3(b)(4), 1.3(b)(21) and 1.7(a)(6) of this order;

(j) Conduct such administrative and technical support activities within and outside the United States as are necessary to provide for cover and proprietary arrangements, to perform the functions described in [sub]sections (a) though [sic] (i) above, and to support the Intelligence Community elements of the Department of Defense; and

(k) Use the Intelligence Community elements within the Department of Defense identified in section 1.7(b) through (f) and, when the Coast Guard is operating as part of the Department of Defense, (h) above to carry out the Secretary of Defense's responsibilities assigned in this section or other departments, agencies, or offices within the Department of Defense, as appropriate, to conduct the intelligence missions and responsibilities assigned to the Secretary of Defense.

1.11 THE DEPARTMENT OF HOMELAND SECURITY

In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of Homeland Security under sections 1.4 and 1.7(i) of this order, the Secretary of Homeland Security shall conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President or the Vice President of the United States, the Executive Office of the President, and, as authorized by the Secretary of Homeland Security or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against use of such surveillance equipment, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of Homeland Security and the Attorney General.

1.12 THE DEPARTMENT OF ENERGY

In addition to the authorities exercised by the Office of Intelligence and Counterintelligence of the Department of Energy under sections 1.4 and 1.7(i) of this order, the Secretary of Energy shall:

(a) Provide expert scientific, technical, analytic, and research capabilities to other agencies within the Intelligence Community, as appropriate;

(b) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(c) Participate with the Department of State in overtly collecting information with respect to foreign energy matters.

1.13 THE FEDERAL BUREAU OF INVESTIGATION

In addition to the authorities exercised by the intelligence elements of the Federal Bureau of Investigation of the Department of Justice under sections 1.4 and 1.7(g) of this order and under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the Federal Bureau of Investigation shall provide technical assistance, within or outside the United States, to foreign intelligence and law enforcement services, consistent with section 1.3(b)(20) and (21) of this order, as may be necessary to support national or departmental missions.

PART 2—CONDUCT OF INTELLIGENCE ACTIVITIES

2.1 NEED

Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to informed decisionmaking in the areas of national security, national defense, and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative, and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 PURPOSE

This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities, the spread of weapons of mass destruction, and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 COLLECTION OF INFORMATION

Elements of the Intelligence Community are authorized to collect, retain, or disseminate information concerning United States persons only in accordance with procedures established by the head of the Intelligence Community element concerned or by the head of a department containing such element and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order, after consultation with the Director. Those procedures shall permit collection, retention, and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the Federal Bureau of Investigation (FBI) or, when significant foreign intelligence is sought, by other authorized elements of the Intelligence Community, provided that no foreign intelligence collection by such elements may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international drug, or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims, or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources, methods, and activities from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other elements of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence element contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical, or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate Federal, state, local, or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, elements of the Intelligence Community may disseminate information to each appropriate element within the Intelligence Community for purposes of allowing the recipient element to determine whether the information is relevant to its responsibilities and can be retained by it, except that information derived from signals intelligence may only be disseminated or made available to Intelligence Community elements in accordance with procedures established by the Director in coordination with the Secretary of Defense and approved by the Attorney General.

2.4 Collection Techniques

Elements of the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Elements of the Intelligence Community are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the Intelligence Community element concerned or the head of a department containing such element concerned and approved by the Attorney General, after consultation with the Director. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The Central Intelligence Agency (CIA) to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by elements of the Intelligence Community other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession;

(c) Physical surveillance of a United States person in the United States by elements of the Intelligence Community other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence element contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service; and

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 Attorney General Approval

The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. The authority delegated pursuant to this paragraph, including the authority to approve the use of electronic surveillance as defined in the Foreign Intelligence Surveillance Act of 1978, as amended, shall be exercised in accordance with that Act.

2.6 Assistance to Law Enforcement and other Civil Authorities

Elements of the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property, and facilities of any element within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the general counsel of the providing element or department; and

(d) Render any other assistance and cooperation to law enforcement or other civil authorities not precluded by applicable law.

2.7 Contracting

Elements of the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 Consistency With Other Laws

Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 Undisclosed Participation in Organizations Within the United States

No one acting on behalf of elements of the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any element of the Intelligence Community without disclosing such person's intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the Intelligence Community element concerned or the head of a department containing such element and approved by the Attorney General, after consultation with the Director. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the Intelligence Community element head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 Human Experimentation

No element of the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 Prohibition on Assassination

No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 INDIRECT PARTICIPATION

No element of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

2.13 LIMITATION ON COVERT ACTION

No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

PART 3—GENERAL PROVISIONS

3.1 CONGRESSIONAL OVERSIGHT

The duties and responsibilities of the Director and the heads of other departments, agencies, elements, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be implemented in accordance with applicable law, including title V of the Act [50 U.S.C. 3091 et seq.]. The requirements of applicable law, including title V of the Act, shall apply to all covert action activities as defined in this Order.

3.2 IMPLEMENTATION

The President, supported by the NSC, and the Director shall issue such appropriate directives, procedures, and guidance as are necessary to implement this order. Heads of elements within the Intelligence Community shall issue appropriate procedures and supplementary directives consistent with this order. No procedures to implement Part 2 of this order shall be issued without the Attorney General's approval, after consultation with the Director. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an element in the Intelligence Community (or the head of the department containing such element) other than the FBI. In instances where the element head or department head and the Attorney General are unable to reach agreements on other than constitutional or other legal grounds, the Attorney General, the head of department concerned, or the Director shall refer the matter to the NSC.

3.3 PROCEDURES

The activities herein authorized that require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order 12333. New procedures, as required by Executive Order 12333, as further amended, shall be established as expeditiously as possible. All new procedures promulgated pursuant to Executive Order 12333, as amended, shall be made available to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

3.4 REFERENCES AND TRANSITION

References to ''Senior Officials of the Intelligence Community'' or ''SOICs'' in executive orders or other Presidential guidance, shall be deemed references to the heads of elements in the Intelligence Community, unless the President otherwise directs; references in Intelligence Community or Intelligence Community element policies or guidance, shall be deemed to be references to the heads of elements of the Intelligence Community, unless the President or the Director otherwise directs.

3.5 DEFINITIONS

For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or their agents, or international terrorist organizations or activities.

(b) *Covert action* means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include:

(1) Activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) Traditional diplomatic or military activities or routine support to such activities;

(3) Traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) Activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(c) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(d) *Employee* means a person employed by, assigned or detailed to, or acting for an element within the Intelligence Community.

(e) *Foreign intelligence* means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(f) *Intelligence* includes foreign intelligence and counterintelligence.

(g) *Intelligence activities* means all activities that elements of the Intelligence Community are authorized to conduct pursuant to this order.

(h) *Intelligence Community and elements of the Intelligence Community* refers to:

(1) The Office of the Director of National Intelligence;

(2) The Central Intelligence Agency;

(3) The National Security Agency;

(4) The Defense Intelligence Agency;

(5) The National Geospatial-Intelligence Agency;

(6) The National Reconnaissance Office;

(7) The other offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(8) The intelligence and counterintelligence elements of the Army, the Navy, the Air Force, and the Marine Corps;

(9) The intelligence elements of the Federal Bureau of Investigation;

(10) The Office of National Security Intelligence of the Drug Enforcement Administration;

(11) The Office of Intelligence and Counterintelligence of the Department of Energy;

(12) The Bureau of Intelligence and Research of the Department of State;

(13) The Office of Intelligence and Analysis of the Department of the Treasury;

(14) The Office of Intelligence and Analysis of the Department of Homeland Security;

(15) The intelligence and counterintelligence elements of the Coast Guard; and

(16) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director and the head of the department or agency concerned, as an element of the Intelligence Community.

(i) *National Intelligence and Intelligence Related to National Security* means all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that pertains, as determined consistent with any guidance is-

sued by the President, or that is determined for the purpose of access to information by the Director in accordance with section 1.3(a)(1) of this order, to pertain to more than one United States Government agency; and that involves threats to the United States, its people, property, or interests; the development, proliferation, or use of weapons of mass destruction; or any other matter bearing on United States national or homeland security.

(j) *The National Intelligence Program* means all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the Director and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(k) *United States person* means a United States citizen, an alien known by the intelligence element concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.6 REVOCATION

Executive Orders 13354 and 13355 of August 27, 2004, are revoked; and paragraphs 1.3(b)(9) and (10) of Part 1 supersede provisions within Executive Order 12958, as amended, to the extent such provisions in Executive Order 12958, as amended, are inconsistent with this Order.

3.7 GENERAL PROVISIONS

(a) Consistent with section 1.3(c) of this order, nothing in this order shall be construed to impair or otherwise affect:

(1) Authority granted by law to a department or agency, or the head thereof; or

(2) Functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.

[For provisions relating to consideration of Commandant and Assistant Commandant for Intelligence of the Coast Guard as a ''Senior Official of the Intelligence Community'' for purposes of Ex. Ord. No. 12333, set out above, and all other relevant authorities, see Ex. Ord. No. 13286, § 87, Feb. 28, 2003, 68 F.R. 10632, set out as a note under section 111 of Title 6, Domestic Security.]

EXECUTIVE ORDER NO. 12334

Ex. Ord. No. 12334, Dec. 4, 1981, 46 F.R. 59955, as amended by Ex. Ord. No. 12701, Feb. 14, 1990, 55 F.R. 5953, which established the President's Intelligence Oversight Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, formerly set out below.

EXECUTIVE ORDER NO. 12863

Ex. Ord. No. 12863, Sept. 13, 1993, 58 F.R. 48441, as amended by Ex. Ord. No. 13070, Dec. 15, 1997, 62 F.R. 66493; Ex. Ord. No. 13301, May 14, 2003, 68 F.R. 26981; Ex. Ord. No. 13376, Apr. 13, 2005, 70 F.R. 20261, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 13462, § 10, Feb. 29, 2008, 73 F.R. 11808, set out below.

EX. ORD. NO. 13434. NATIONAL SECURITY PROFESSIONAL DEVELOPMENT

Ex. Ord. No. 13434, May 17, 2007, 72 F.R. 28583, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the national security, it is hereby ordered as follows:

SECTION 1. *Policy*. In order to enhance the national security of the United States, including preventing, protecting against, responding to, and recovering from natural and manmade disasters, such as acts of terrorism, it is the policy of the United States to promote the education, training, and experience of current and future professionals in national security positions (security professionals) in executive departments and agencies (agencies).

SEC. 2. *National Strategy for Professional Development*. Not later than 60 days after the date of this order, the Assistant to the President for Homeland Security and Counterterrorism (APHS/CT), in coordination with the Assistant to the President for National Security Affairs (APNSA), shall submit to the President for approval a National Strategy for the Development of Security Professionals (National Strategy). The National Strategy shall set forth a framework that will provide to security professionals access to integrated education, training, and professional experience opportunities for the purpose of enhancing their mission-related knowledge, skills, and experience and thereby improve their capability to safeguard the security of the Nation. Such opportunities shall be provided across organizations, levels of government, and incident management disciplines, as appropriate.

SEC. 3. *Executive Steering Committee*. (a) There is established the Security Professional Development Executive Steering Committee (Steering Committee), which shall facilitate the implementation of the National Strategy. Not later than 120 days after the approval of the National Strategy by the President, the Steering Committee shall submit to the APHS/CT and the APNSA an implementation plan (plan) for the National Strategy, and annually thereafter shall submit to the APHS/CT and the APNSA a status report on the implementation of the plan and any recommendations for changes to the National Strategy.

(b) The Steering Committee shall consist exclusively of the following members (or their designees who shall be full-time officers or employees of the members' respective agencies):

(i) the Director of the Office of Personnel Management, who shall serve as Chair;

(ii) the Secretary of State;

(iii) the Secretary of the Treasury;

(iv) the Secretary of Defense;

(v) the Attorney General;

(vi) the Secretary of Agriculture;

(vii) the Secretary of Labor;

(viii) the Secretary of Health and Human Services;

(ix) the Secretary of Housing and Urban Development;

(x) the Secretary of Transportation;

(xi) the Secretary of Energy;

(xii) the Secretary of Education;

(xiii) the Secretary of Homeland Security;

(xiv) the Director of National Intelligence;

(xv) the Director of the Office of Management and Budget; and

(xvi) such other officers of the United States as the Chair of the Steering Committee may designate from time to time.

(c) The Steering Committee shall coordinate, to the maximum extent practicable, national security professional development programs and guidance issued by the heads of agencies in order to ensure an integrated approach to such programs.

(d) The Chair of the Steering Committee shall convene and preside at the meetings of the Steering Committee, set its agenda, coordinate its work, and, as ap-

propriate to deal with particular subject matters, establish subcommittees of the Steering Committee that shall consist exclusively of members of the Steering Committee (or their designees under subsection (b) of this section), and such other full-time or permanent part-time officers or employees of the Federal Government as the Chair may designate.

SEC. 4. *Responsibilities*. The head of each agency with national security functions shall:

(a) identify and enhance existing national security professional development programs and infrastructure, and establish new programs as necessary, in order to fulfill their respective missions to educate, train, and employ security professionals consistent with the National Strategy and, to the maximum extent practicable, the plan and related guidance from the Steering Committee; and

(b) cooperate with the Steering Committee and provide such information, support, and assistance as the Chair of the Steering Committee may request from time to time.

SEC. 5. *Additional Responsibilities*. (a) Except for employees excluded by law, and subject to subsections (b), (c), and (d) of this section, the Director of the Office of Personnel Management, after consultation with the Steering Committee, shall:

(i) consistent with applicable merit-based hiring and advancement principles, lead the establishment of a national security professional development program in accordance with the National Strategy and the plan that provides for interagency and intergovernmental assignments and fellowship opportunities and provides for professional development guidelines for career advancement; and

(ii) issue to agencies rules and guidance or apply existing rules and guidance relating to the establishment of national security professional development programs to implement the National Strategy and the plan;

(b) The Secretary of Defense shall issue rules or guidance on professional development programs for Department of Defense military personnel, including interagency and intergovernmental assignments and fellowship opportunities, to implement the National Strategy and the plan, as appropriate, and shall coordinate such programs, to the maximum extent practicable, with the Steering Committee;

(c) The Secretary of State shall issue rules or guidance on national security professional development programs for the Foreign Service, including interagency and intergovernmental exchanges and fellowship opportunities, to implement the National Strategy and the plan, as appropriate, and shall coordinate such programs, to the maximum extent practicable, with the Steering Committee;

(d) The Director of National Intelligence, in coordination with the heads of agencies of which elements of the intelligence community are a part, shall issue rules or guidance on national security professional development programs for the intelligence community, including interagency and intergovernmental assignments and fellowship opportunities, to implement the National Strategy and the plan, as appropriate, and shall coordinate such programs, to the maximum extent practicable, with the Steering Committee; and

(e) The Secretary of Homeland Security shall develop a program to provide to Federal, State, local, and tribal government officials education in disaster preparedness, response, and recovery plans and authorities, and training in crisis decision-making skills, consistent with applicable presidential guidance.

SEC. 6. *General Provisions*. This order:

(a) shall be implemented consistent with applicable law and authorities of agencies, or heads of agencies, vested by law, and subject to the availability of appropriations;

(b) shall not be construed to impair or otherwise affect the authorities of any agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals, or the functions assigned by the President to the Director of the Office of Personnel Management; and

(c) is not intended to, and does not, create any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13462. PRESIDENT'S INTELLIGENCE ADVISORY BOARD AND INTELLIGENCE OVERSIGHT BOARD

Ex. Ord. No. 13462, Feb. 29, 2008, 73 F.R. 11805, as amended by Ex. Ord. No. 13516, §1, Oct. 28, 2009, 74 F.R. 56521, 57241, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to ensure that the President and other officers of the United States with responsibility for the security of the Nation and the advancement of its interests have access to accurate, insightful, objective, and timely information concerning the capabilities, intentions, and activities of foreign powers.

SEC. 2. *Definitions*. As used in this order:

(a) ''department concerned'' means an executive department listed in section 101 of title 5, United States Code, that contains an organization listed in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended ([former] 50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)];

(b) ''intelligence activities'' has the meaning specified in section 3.5 of Executive Order 12333 of December 4, 1981, as amended; and

(c) ''intelligence community'' means the organizations listed in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended.

SEC. 3. *Establishment of the President's Intelligence Advisory Board*. (a) There is hereby established, within the Executive Office of the President and exclusively to advise and assist the President as set forth in this order, the President's Intelligence Advisory Board (PIAB).

(b) The PIAB shall consist of not more than 16 members appointed by the President from among individuals who are not full-time employees of the Federal Government.

(c) The President shall designate a Chair or Co-Chairs from among the members of the PIAB, who shall convene and preside at meetings of the PIAB, determine its agenda, and direct its work.

(d) Members of the PIAB and the Intelligence Oversight Board (IOB) established in section 5 of this order:

(i) shall serve without any compensation for their work on the PIAB or the IOB; and

(ii) while engaged in the work of the PIAB or the IOB, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government (5 U.S.C. 5701–5707).

(e) The PIAB shall utilize such full-time professional and administrative staff as authorized by the Chair and approved by the President or the President's designee. Such staff shall be supervised by an Executive Director of the PIAB, appointed by the President, whom the President may designate to serve also as the Executive Director of the IOB.

SEC. 4. *Functions of the PIAB*. Consistent with the policy set forth in section 1 of this order, the PIAB shall have the authority to, as the PIAB determines appropriate, or shall, when directed by the President:

(a) assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities, assess the adequacy of management, personnel and organization in the intelligence community, and review the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or

production of intelligence or the execution of intelligence policy and report the results of such assessments or reviews:

(i) to the President, as necessary but not less than twice each year; and

(ii) to the Director of National Intelligence (DNI) and the heads of departments concerned when the PIAB determines appropriate; and

(b) consider and make appropriate recommendations to the President, the DNI, or the head of the department concerned with respect to matters identified to the PIAB by the DNI or the head of a department concerned.

SEC. 5. *Establishment of Intelligence Oversight Board*.

(a) There is hereby established a committee of the PIAB to be known as the Intelligence Oversight Board.

(b) The IOB shall consist of not more than five members of the PIAB who are designated by the President from among members of the PIAB to serve on the IOB. The IOB shall utilize such full-time professional and administrative staff as authorized by the Chair and approved by the President or the President's designee. Such staff shall be supervised by an Executive Director of the IOB, appointed by the President, whom the President may designate to serve also as the Executive Director of the PIAB.

(c) The President shall designate a Chair from among the members of the IOB, who shall convene and preside at meetings of the IOB, determine its agenda, and direct its work.

SEC. 6. *Functions of the IOB*. Consistent with the policy set forth in section 1 of this order, the IOB shall:

(a) issue criteria on the thresholds for reporting matters to the IOB, to the extent consistent with section 1.6(c) of Executive Order 12333, as amended[,] or the corresponding provision of any successor order;

(b) inform the President of intelligence activities that the IOB believes:

(i)(A) may be unlawful or contrary to Executive Order or presidential directive; and

(B) are not being adequately addressed by the Attorney General, the DNI, or the head of the department concerned; or

(ii) should be immediately reported to the President.[;]

(c) forward to the Attorney General information concerning intelligence activities that involve possible violations of Federal criminal laws or otherwise implicate the authority of the Attorney General;

(d) review and assess the effectiveness, efficiency, and sufficiency of the processes by which the DNI and the heads of departments concerned perform their respective functions under this order and report thereon as necessary, together with any recommendations, to the President and, as appropriate, the DNI and the head of the department concerned;

(e) receive and review information submitted by the DNI under subsection 7(c) of this order and make recommendations thereon, including for any needed corrective action, with respect to such information, and the intelligence activities to which the information relates, as necessary, but not less than twice each year, to the President, the DNI, and the head of the department concerned; and

(f) conduct, or request that the DNI or the head of the department concerned, as appropriate, carry out and report to the IOB the results of, investigations of intelligence activities that the IOB determines are necessary to enable the IOB to carry out its functions under this order.

SEC. 7. *Functions of the Director of National Intelligence*. Consistent with the policy set forth in section 1 of this order, the DNI shall:

(a) with respect to guidelines applicable to organizations within the intelligence community that concern reporting of intelligence activities described in subsection 6(b)(i)(A) of this order:

(i) review and ensure that such guidelines are consistent with section 1.6(c) of Executive Order 12333, as amended, or a corresponding provision of any successor order, and this order; and

(ii) issue for incorporation in such guidelines instructions relating to the format and schedule of such reporting as necessary to implement this order;

(b) with respect to intelligence activities described in subsection 6(b)(i)(A) of this order:

(i) receive reports submitted to the IOB pursuant to section 1.6(c) of Executive Order 12333, as amended, or a corresponding provision of any successor order;

(ii) forward to the Attorney General information in such reports relating to such intelligence activities to the extent that such activities involve possible violations of Federal criminal laws or implicate the authority of the Attorney General unless the DNI or the head of the department concerned has previously provided such information to the Attorney General; and

(iii) monitor the intelligence community to ensure that the head of the department concerned has directed needed corrective actions and that such actions have been taken and report to the IOB and the head of the department concerned, and as appropriate the President, when such actions have not been timely taken; and

(c) submit to the IOB as necessary and no less than twice each year:

(i) an analysis of the reports received under subsection (b)(i) of this section, including an assessment of the gravity, frequency, trends, and patterns of occurrences of intelligence activities described in subsection 6(b)(i)(A) of this order;

(ii) a summary of direction under subsection (b)(iii) of this section and any related recommendations; and

(iii) an assessment of the effectiveness of corrective action taken by the DNI or the head of the department concerned with respect to intelligence activities described in subsection 6(b)(i)(A) of this order.

SEC. 8. *Functions of Heads of Departments Concerned and Additional Functions of the Director of National Intelligence*.

(a) To the extent permitted by law, the DNI and the heads of departments concerned shall provide such information and assistance as the PIAB and the IOB determine is needed to perform their functions under this order.

(b) The heads of departments concerned shall:

(i) ensure that the DNI receives:

(A) copies of reports submitted to the IOB pursuant to section 1.6(c) of Executive Order 12333, as amended, or a corresponding provision of any successor order; and

(B) such information and assistance as the DNI may need to perform functions under this order; and

(ii) designate the offices within their respective organizations that shall submit reports to the IOB required by Executive Order and inform the DNI and the IOB of such designations; and

(iii) ensure that departments concerned comply with instructions issued by the DNI under subsection 7(a)(ii) of this order.

(c) The head of a department concerned who does not implement a recommendation to that head of department from the PIAB under subsection 4(b) of this order or from the IOB under subsections 6(c) or 6(d) of this order shall promptly report through the DNI to the Board that made the recommendation, or to the President, the reasons for not implementing the recommendation.

(d) The DNI shall ensure that the Director of the Central Intelligence Agency performs the functions with respect to the Central Intelligence Agency under this order that a head of a department concerned performs with respect to organizations within the intelligence community that are part of that department.

SEC. 9. *References and Transition*. (a) References in Executive Orders other than this order, or in any other presidential guidance, to the ''President's Foreign Intelligence Advisory Board'' shall be deemed to be references to the President's Intelligence Advisory Board established by this order.

(b) Individuals who are members of the President's Foreign Intelligence Advisory Board under Executive

Order 12863 of September 13, 1993, as amended, immediately prior to the signing of this order shall be members of the President's Intelligence Advisory Board immediately upon the signing of this order, to serve as such consistent with this order until the date that is 15 months following the date of this order.

(c) Individuals who are members of the Intelligence Oversight Board under Executive Order 12863 immediately prior to the signing of this order shall be members of the Intelligence Oversight Board under this order, to serve as such consistent with this order until the date that is 15 months following the date of this order.

(d) The individual serving as Executive Director of the President's Foreign Intelligence Advisory Board immediately prior to the signing of this order shall serve as the Executive Director of the PIAB until such person resigns, dies, or is removed, or upon appointment of a successor under this order and shall serve as the Executive Director of the IOB until an Executive Director of the IOB is appointed or designated under this order.

SEC. 10. *Revocation*. Executive Order 12863 is revoked.

SEC. 11. *General Provisions*.

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) Any person who is a member of the PIAB or the IOB, or who is granted access to classified national security information in relation to the activities of the PIAB or the IOB, as a condition of access to such information, shall sign and comply with appropriate agreements to protect such information from unauthorized disclosure. This order shall be implemented in a manner consistent with Executive Order 12958 of April 17, 1995, as amended, and Executive Order 12968 of August 2, 1995, as amended.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EFFECTIVE DATES OF PROVISIONS IN TITLE I OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of Energy[,] the Secretary of Homeland Security[,] the Director of the Office of Management and Budget[, and] the Director of National Intelligence

Subsection 1097(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458, December 17, 2004) (the Act) [set out in a note above] provides:

(a) IN GENERAL- Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect not later than 6 months after the date of the enactment of this Act.

Subsection 1097(a) clearly contemplates that one or more of the provisions in Title I of the Act may take effect earlier than the date that is 6 months after the date of enactment of the Act, but does not state explicitly the mechanism for determining when such earlier effect shall occur, leaving it to the President in the execution of the Act. Moreover, given that section 1097(a) evinces a legislative intent to afford the President flexibility, and such flexibility is constitutionally appropriate with respect to intelligence matters (see *United States v. Curtiss-Wright Export Corporation*, 299 U.S. 304 (1936)), the executive branch shall construe section 1097(a) to authorize the President to select different effective dates that precede the 6-month deadline for different provisions in Title I.

Therefore, pursuant to the Constitution and the laws of the United States of America, including subsection 1097(a) of the Act, I hereby determine and direct:

1. Sections 1097(a) and 1103 of the Act [set out in notes above], relating respectively to effective dates of provisions and to severability, shall take effect immediately upon the signing of this memorandum to any extent that they have not already taken effect.

2. Provisions in Title I of the Act other than those addressed in numbered paragraph 1 of this memorandum shall take effect immediately upon the signing of this memorandum, except:

(a) any provision in Title I of the Act for which the Act expressly provides the date on which the provision shall take effect; and

(b) sections 1021 and 1092 of the Act [enacting section 3056 of this title and provisions set out in a note above, respectively], relating to the National Counterterrorism Center.

The taking of effect of a provision pursuant to section 1097(a) of the Act and this memorandum shall not affect the construction of such provision by the executive branch as set forth in my Statement of December 17, 2004, upon signing the Act into law.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 3002. Congressional declaration of purpose

In enacting this chapter, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

(July 26, 1947, ch. 343, § 2, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 2, 63 Stat. 579; Pub. L. 85–599, § 2, Aug. 6, 1958, 72 Stat. 514.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this legislation'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 401 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1958—Pub. L. 85–599 amended section generally, and, among other changes, provided that each military department shall be separately organized, instead of separately administered, under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense, and inserted provisions relating to establishment of unified or specified combatant commands and for elimination of unnecessary duplication.

1949—Act Aug. 10, 1949, provided that the military departments shall be separately administered but be under the direction of the Secretary of Defense, and that there shall not be a single Chief of Staff over the armed forces nor an armed forces general staff.

§ 3003. Definitions

As used in this chapter:

(1) The term ''intelligence'' includes foreign intelligence and counterintelligence.

(2) The term ''foreign intelligence'' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term ''intelligence community'' includes the following:

(A) The Office of the Director of National Intelligence.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The Defense Intelligence Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The National Reconnaissance Office.

(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy.

(I) The Bureau of Intelligence and Research of the Department of State.

(J) The Office of Intelligence and Analysis of the Department of the Treasury.

(K) The Office of Intelligence and Analysis of the Department of Homeland Security.

(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms ''national intelligence'' and ''intelligence related to national security'' refer to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that—

(A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and

(B) that involves—

(i) threats to the United States, its people, property, or interests;

(ii) the development, proliferation, or use of weapons of mass destruction; or

(iii) any other matter bearing on United States national or homeland security.

(6) The term ''National Intelligence Program'' refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of National Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(7) The term ''congressional intelligence committees'' means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(July 26, 1947, ch. 343, § 3, as added Pub. L. 102–496, title VII, § 702, Oct. 24, 1992, 106 Stat. 3188; amended Pub. L. 103–359, title V, § 501(a)(1), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104–201, div. A, title XI, § 1122(b)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 107–56, title IX, § 902, Oct. 26, 2001, 115 Stat. 387; Pub. L. 107–108, title I, § 105, Dec. 28, 2001, 115 Stat. 1397; Pub. L. 107–296, title II, § 201(h), Nov. 25, 2002, 116 Stat. 2149; Pub. L. 107–306, title III, § 353(a), Nov. 27, 2002, 116 Stat. 2401; Pub. L. 108–136, div. A, title IX, § 921(e)(1), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108–177, title I, § 105(d)(1), Dec. 13, 2003, 117 Stat. 2603; Pub. L. 108–458, title I, §§ 1012, 1073, 1074(a), Dec. 17, 2004, 118 Stat. 3662, 3693, 3694; Pub. L. 111–259, title IV, § 441, title VIII, § 804(1), Oct. 7, 2010, 124 Stat. 2732, 2747; Pub. L. 112–87, title IV, § 431, title V, § 505(1), Jan. 3, 2012, 125 Stat. 1894, 1897.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 401a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2012—Par. (4)(K). Pub. L. 112–87, § 431, amended subpar. (K) generally. Prior to amendment, subpar. (K) read as

follows: ''The elements of the Department of Homeland Security concerned with the analysis of intelligence information.''

Par. (6). Pub. L. 112–87, § 505(1), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2010—Par. (4)(H). Pub. L. 111–259, § 441(1), inserted ''the Coast Guard,'' after ''the Marine Corps,'' and ''the Drug Enforcement Administration,'' after ''the Federal Bureau of Investigation,''.

Par. (4)(K). Pub. L. 111–259, § 441(2), struck out '', including the Office of Intelligence of the Coast Guard'' after ''information''.

Par. (4)(L). Pub. L. 111–259, § 804(1), struck out ''other'' after ''elements of any''.

2004—Par. (4). Pub. L. 108–458, § 1073, amended par. (4) generally, substituting provisions defining ''intelligence community'' as including the Office of the Director of National Intelligence and other entities for provisions defining ''intelligence community'' as including the Office of the Director of Central Intelligence and other entities.

Par. (5). Pub. L. 108–458, § 1012, amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The terms 'national intelligence' and 'intelligence related to the national security'—

''(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

''(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.''

Par. (6). Pub. L. 108–458, § 1074(a), struck out ''Foreign'' before ''Intelligence Program''.

2003—Par. (4)(E). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Par. (4)(H). Pub. L. 108–177, § 105(d)(1)(A), struck out ''the Department of the Treasury,'' after ''the Federal Bureau of Investigation,''.

Par. (4)(J) to (L). Pub. L. 108–177, § 105(d)(1)(B), (C), added subpar. (J) and redesignated former subpars. (J) and (K) as (K) and (L), respectively.

2002—Par. (4)(J), (K). Pub. L. 107–296 added subpar. (J) and redesignated former subpar. (J) as (K).

Par. (7). Pub. L. 107–306 added par. (7).

2001—Par. (2). Pub. L. 107–56, § 902(1), inserted '', or international terrorist activities'' before period at end.

Par. (3). Pub. L. 107–56, § 902(2), substituted '', and activities conducted,'' for ''and activities conducted''.

Par. (4)(H). Pub. L. 107–108 struck out ''and'' before ''the Department of Energy'' and inserted '', and the Coast Guard'' before semicolon.

1996—Par. (4)(E). Pub. L. 104–201 substituted ''National Imagery and Mapping Agency'' for ''Central Imagery Office''.

1994—Par. (4)(E). Pub. L. 103–359 substituted ''the Central Imagery Office'' for ''the central imagery authority within the Department of Defense''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

DELEGATION OF FUNCTIONS

For assignment of function of President under par. (5)(A) of this section to Director of National Intelligence, see Ex. Ord. No. 12333, § 1.3(a)(1), Dec. 4, 1981, 46 F.R. 59941, as amended, set out as a note under section 3001 of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

DEFINITIONS APPLICABLE TO SPECIFIC ACTS

Pub. L. 113–293, § 2, Dec. 19, 2014, 128 Stat. 3991, provided that: ''In this Act [see Tables for classification]:

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).''

Pub. L. 113–126, § 2, July 7, 2014, 128 Stat. 1391, provided that: ''In this Act [see Tables for classification]:

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).''

Pub. L. 112–87, § 2, Jan. 3, 2012, 125 Stat. 1877, provided that: ''In this Act [see Tables for classification]:

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].''

Pub. L. 111–259, § 2, Oct. 7, 2010, 124 Stat. 2656, provided that: ''In this Act [see Tables for classification]:

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].''

§ 3004. Definitions of military departments

(a) The term ''Department of the Army'' as used in this chapter shall be construed to mean

the Department of the Army at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(b) The term ''Department of the Navy'' as used in this chapter shall be construed to mean the Department of the Navy at the seat of the government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(c) The term ''Department of the Air Force'' as used in this chapter shall be construed to mean the Department of the Air Force at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(July 26, 1947, ch. 343, title II, §§ 205(c), 206(a), 207(c), 61 Stat. 501, 502.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 409 of this title prior to editorial reclassification and renumbering as this section, and to section 171–2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

Prior to the enactment of Title 10, Armed Forces, by act Aug. 10, 1956, subsecs. (a), (b), and (c) of this section were classified to sections 181–1(c), 411a(a), and 626(c), respectively, of former Title 5.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3005. Applicable laws

Except to the extent inconsistent with the provisions of this chapter, the provisions of title 4 of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense.

(July 26, 1947, ch. 343, title II, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

Title 4 of the Revised Statutes, referred to in text, was entitled ''Provisions Applicable to All Executive Departments'', and consisted of R.S. §§ 158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, and 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514 and 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 408 of this title prior to editorial reclassification and renumbering as this section, and to section 171–1 of former Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 3006. Repealing and savings provisions

All laws, orders, and regulations inconsistent with the provisions of this title[1] are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title[1] shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title[1] shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title.[1]

(July 26, 1947, ch. 343, title IV, § 411, as added Aug. 10, 1949, ch. 412, § 11, 63 Stat. 590.)

REFERENCES IN TEXT

This title, referred to in text, means title IV of act July 26, 1947, ch. 343, as added Aug. 10, 1949, ch. 412, § 11, 63 Stat. 585, which enacted this section and enacted and amended various sections in former Title 5, Executive Departments and Government Officers and Employees, and former Title 31, Money and Finance. For complete classification of title IV to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 412 of this title prior to editorial reclassification and renumbering as this section, and to section 172j of former Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SUBCHAPTER I—COORDINATION FOR NATIONAL SECURITY

§ 3021. National Security Council

(a) Establishment; presiding officer; functions; composition

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the ''Council'').

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

[1] See References in Text note below.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the Secretary of State;

(4) the Secretary of Defense;

(5) the Secretary of Energy; and

(6) the Secretaries and Under Secretaries of other executive departments and of the military departments, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) Additional functions

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) Executive secretary; appointment; staff employees

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) Recommendations and reports

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

(e) Participation of Chairman or Vice Chairman of Joint Chiefs of Staff

The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(f) Participation by Director of National Drug Control Policy

The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(g) Board for Low Intensity Conflict

The President shall establish within the National Security Council a board to be known as the ''Board for Low Intensity Conflict''. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

(h) Committee on Foreign Intelligence

(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the ''Committee'').

(2) The Committee shall be composed of the following:

(A) The Director of National Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(E) Such other members as the President may designate.

(3) The function of the Committee shall be to assist the Council in its activities by—

(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

(4) In carrying out its function, the Committee shall—

(A) conduct an annual review of the national security interests of the United States;

(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

(5) The Committee shall submit each year to the Council and to the Director of National Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).

(i) Committee on Transnational Threats

(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the ''Committee'').

(2) The Committee shall include the following members:

(A) The Director of National Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Attorney General.

(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(F) Such other members as the President may designate.

(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

(4) In carrying out its function, the Committee shall—

(A) identify transnational threats;

(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

(C) monitor implementation of such strategies;

(D) make recommendations as to appropriate responses to specific transnational threats;

(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

(5) For purposes of this subsection, the term ''transnational threat'' means the following:

(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

(B) Any individual or group that engages in an activity referred to in subparagraph (A).

(j) Participation of Director of National Intelligence

The Director of National Intelligence (or, in the Director's absence, the Principal Deputy Director of National Intelligence) may, in the performance of the Director's duties under this chapter and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(k) Special Adviser to the President on International Religious Freedom

It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 6402 of title 22), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.

***(l)* Participation of Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism**

The United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (or, in the Coordinator's absence, the Deputy United States Coordinator) may, in the performance of the Coordinator's duty as principal advisor to the President on all matters relating to the prevention of weapons of mass destruction proliferation and terrorism, and, subject to the direction of the President, attend and participate in meetings of the National Security Council and the Homeland Security Council.

(July 26, 1947, ch. 343, title I, § 101, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 3, 63 Stat. 579; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Oct. 10, 1951, ch. 479, title V, § 501(e)(1), 65 Stat. 378; Pub. L. 99–433, title II, § 203, Oct. 1, 1986, 100 Stat. 1011; Pub. L. 99–500, § 101(c) [title IX, § 9115(f)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–125, and Pub. L. 99–591, § 101(c) [title IX, § 9115(f)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–125; Pub. L. 99–661, div. A, title XIII, § 1311(f), Nov. 14, 1986, 100 Stat. 3986; Pub. L. 100–690, title I, § 1003(a)(3), Nov. 18, 1988, 102 Stat. 4182; Pub. L. 102–496, title VII, § 703, Oct. 24, 1992, 106 Stat. 3189; Pub. L. 104–293, title VIII, §§ 802, 804, Oct. 11, 1996, 110 Stat. 3474, 3476; Pub. L. 105–277, div. C, title VII, § 713(b), Oct. 21, 1998, 112 Stat. 2681–693; Pub. L. 105–292, title III, § 301, Oct. 27, 1998, 112 Stat. 2800; Pub. L. 108–458, title I, §§ 1071(a)(1)(A)–(D), 1072(a)(1), Dec. 17, 2004, 118 Stat. 3689, 3692; Pub. L. 110–53, title XVIII, § 1841(g), Aug. 3, 2007, 121 Stat. 500; Pub. L. 110–140, title IX, § 932, Dec. 19, 2007, 121 Stat. 1740; Pub. L. 113–126, title VII, § 702, July 7, 2014, 128 Stat. 1422.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (j), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 402 of this title prior to editorial reclassification and renumbering as this section.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

In subsec. (c), provisions that specified compensation of $10,000 per year for the executive secretary to the Council were omitted. Section 304(b) of Pub. L. 88–426 amended section 105 of Title 3, The President, to include the executive secretary of the Council among those whose compensation was authorized to be fixed by the President. Section 1(a) of Pub. L. 95–570 further amended section 105 of Title 3 to authorize the President to appoint and fix the pay of the employees of the White House Office subject to certain provisions.

In subsec. (c), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act

of 1949, as amended'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2014—Subsec. (a)(5) to (8). Pub. L. 113–126 substituted ''; and'' for semicolon at end of par. (5), redesignated par. (8) as (6) and struck out ''the Chairman of the Munitions Board, and the Chairman of the Research and Development Board,'' after ''military departments,'', and struck out former pars. (6) and (7) which read as follows:

''(6) the Director for Mutual Security;

''(7) the Chairman of the National Security Resources Board; and''.

2007—Subsec. (a)(5) to (8). Pub. L. 110–140 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

Subsecs. (i), (k). Pub. L. 110–53, § 1841(g)(1), redesignated subsec. (i), relating to Special Adviser to the President on International Religious Freedom, as (k).

Subsec. (*l*). Pub. L. 110–53, § 1841(g)(2), added subsec. (*l*).

2004—Subsec. (h)(2)(A). Pub. L. 108–458, § 1071(a)(1)(A), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (h)(5). Pub. L. 108–458, § 1071(a)(1)(B), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (i)(2)(A). Pub. L. 108–458, § 1071(a)(1)(C), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (j). Pub. L. 108–458, § 1072(a)(1), substituted ''Principal Deputy Director of National Intelligence'' for ''Deputy Director of Central Intelligence''.

Pub. L. 108–458, § 1071(a)(1)(D), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

1998—Subsecs. (f), (g). Pub. L. 105–277 added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (i). Pub. L. 105–292 added subsec. (i) relating to Special Adviser to the President on International Religious Freedom.

1996—Subsec. (h). Pub. L. 104–293, § 802(2), added subsec. (h). Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 104–293, § 804, added subsec. (i).

Subsec. (j). Pub. L. 104–293, § 802(1), redesignated subsec. (h) as (j).

1992—Subsec. (h). Pub. L. 102–496 added subsec. (h).

1988—Subsecs. (f), (g). Pub. L. 100–690, §§ 1003(a)(3), 1009, temporarily added subsec. (f), relating to participation by Director of National Drug Control Policy in meetings of National Security Council, and redesignated former subsec. (f) as (g). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (e). Pub. L. 99–433 added subsec. (e).

Subsec. (f). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended section identically adding subsec. (f).

1951—Subsec. (a). Act Oct. 10, 1951, inserted cl. (5) relating to Director for Mutual Security, in fourth paragraph, and renumbered former cls. (5) and (6) thereof as cls. (6) and (7), respectively.

1949—Subsec. (a). Act Aug. 10, 1949, added the Vice President to the Council, removed the Secretaries of the military departments, to authorize the President to add, with the consent of the Senate, Secretaries and Under Secretaries of other executive departments and of the military department, and the Chairmen of the Munitions Board and the Research and Development Board.

Subsec. (c). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923, as amended''.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective Jan. 21, 1989, and repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100–690.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Office of Director for Mutual Security abolished and functions of Director, including those as a member of National Security Council, transferred to Director of Foreign Operations Administration by Reorg. Plan No. 7 of 1953, eff. Aug. 1, 1953, 18 F.R. 4541, set out in the Appendix to Title 5, Government Organization and Employees. Foreign Operations Administration abolished by Ex. Ord. No. 10610, May 9, 1955, 20 F.R. 3179, and its functions and offices transferred to Department of State to be administered by International Cooperation Administration. For later transfer, see section 2381 of Title 22, Foreign Relations and Intercourse, and notes set out under that section.

National Security Resources Board, together with Office of Chairman, abolished by section 6 of Reorg. Plan No. 3 of 1953, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out under section 3042 of this title. Functions of Chairman with limited exception, including his functions as a member of National Security Council transferred to Office of Defense Mobilization by section 2(a) of Reorg. Plan No. 3 of 1953. Functions of Director of Office of Defense Mobilization with respect to being a member of National Security Council transferred to Director of Office of Civil and Defense Mobilization by Reorg. Plan No. 1 of 1958, § 4, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended by Pub. L. 85–763, Aug. 26, 1958, 72 Stat. 861, set out as a note under section 5195 of Title 42, The Public Health and Welfare. For subsequent transfers or delegations to Office of Emergency Planning, Office of Emergency Preparedness, President, Federal Preparedness Agency, and Secretary of Homeland Security, see Transfer of Functions notes set out under section 3042 of this title.

Munitions Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. All functions vested in Munitions Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

Research and Development Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. Functions vested in Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

National Security Council, together with its functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 20, 1949, 14 F.R. 5227, 63 Stat. 1067, set out in

the Appendix to Title 5, Government Organization and Employees.

RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99–500, 99–591, AND 99–661

For rule of construction for certain duplicate provisions of Public Laws 99–500, 99–591, and 99–661, see section 6 of Pub. L. 100–26, set out as a note under section 2302 of Title 10, Armed Forces.

SECTION AS UNAFFECTED BY REPEALS

Repeals by section 542(a) of Mutual Security Act of 1954 did not repeal amendment to this section by act Oct. 10, 1951.

PILOT PROGRAM ON CRYPTOLOGIC SERVICE TRAINING

Pub. L. 108–375, div. A, title IX, § 922, Oct. 28, 2004, 118 Stat. 2029, which authorized the Director of the National Security Agency to carry out a pilot program on cryptologic service training for the intelligence community, was repealed by Pub. L. 111–259, title III, § 313(b)(1)(C), Oct. 7, 2010, 124 Stat. 2666.

EXECUTIVE ORDER NO. 10483

Ex. Ord. No. 10483, Sept. 2, 1953, 18 F.R. 5379, as amended by Ex. Ord. No. 10598, Feb. 28, 1955, 20 F.R. 1237, which provided for an Operations Coordinating Board, was superseded by Ex. Ord. No. 10700, Feb. 25, 1957, formerly set out below.

EXECUTIVE ORDER NO. 10700

Ex. Ord. No. 10700, Feb. 25, 1957, 22 F.R. 1111, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. 10838, Sept. 16, 1959, 24 F.R. 7519, which provided for the Operations Coordinating Board, was revoked by Ex. Ord. No. 10920, Feb. 18, 1961, 26 F.R. 1463.

EX. ORD. NO. 13228. ESTABLISHING THE OFFICE OF HOMELAND SECURITY AND THE HOMELAND SECURITY COUNCIL

Ex. Ord. No. 13228, Oct. 8, 2001, 66 F.R. 51812, as amended by Ex. Ord. No. 13284, § 3, Jan. 23, 2003, 68 F.R. 4075; Ex. Ord. No. 13286, § 8, Feb. 28, 2003, 68 F.R. 10622, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Establishment*. I hereby establish within the Executive Office of the President an Office of Homeland Security (the ''Office'') to be headed by the Assistant to the President for Homeland Security.

SEC. 2. *Mission*. The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

SEC. 3. *Functions*. The functions of the Office shall be to coordinate the executive branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

(a) *National Strategy*. The Office shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and shall periodically review and coordinate revisions to that strategy as necessary.

(b) *Detection*. The Office shall identify priorities and coordinate efforts for collection and analysis of information within the United States regarding threats of terrorism against the United States and activities of terrorists or terrorist groups within the United States. The Office also shall identify, in coordination with the Assistant to the President for National Security Affairs, priorities for collection of intelligence outside the United States regarding threats of terrorism within the United States.

(i) In performing these functions, the Office shall work with Federal, State, and local agencies, as appropriate, to:

(A) facilitate collection from State and local governments and private entities of information pertaining to terrorist threats or activities within the United States;

(B) coordinate and prioritize the requirements for foreign intelligence relating to terrorism within the United States of executive departments and agencies responsible for homeland security and provide these requirements and priorities to the Director of Central Intelligence and other agencies responsible for collection of foreign intelligence;

(C) coordinate efforts to ensure that all executive departments and agencies that have intelligence collection responsibilities have sufficient technological capabilities and resources to collect intelligence and data relating to terrorist activities or possible terrorist acts within the United States, working with the Assistant to the President for National Security Affairs, as appropriate;

(D) coordinate development of monitoring protocols and equipment for use in detecting the release of biological, chemical, and radiological hazards; and

(E) ensure that, to the extent permitted by law, all appropriate and necessary intelligence and law enforcement information relating to homeland security is disseminated to and exchanged among appropriate executive departments and agencies responsible for homeland security and, where appropriate for reasons of homeland security, promote exchange of such information with and among State and local governments and private entities.

(ii) Executive departments and agencies shall, to the extent permitted by law, make available to the Office all information relating to terrorist threats and activities within the United States.

(c) *Preparedness*. The Office of Homeland Security shall coordinate national efforts to prepare for and mitigate the consequences of terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) review and assess the adequacy of the portions of all Federal emergency response plans that pertain to terrorist threats or attacks within the United States;

(ii) coordinate domestic exercises and simulations designed to assess and practice systems that would be called upon to respond to a terrorist threat or attack within the United States and coordinate programs and activities for training Federal, State, and local employees who would be called upon to respond to such a threat or attack;

(iii) coordinate national efforts to ensure public health preparedness for a terrorist attack, including reviewing vaccination policies and reviewing the adequacy of and, if necessary, increasing vaccine and pharmaceutical stockpiles and hospital capacity;

(iv) coordinate Federal assistance to State and local authorities and nongovernmental organizations to prepare for and respond to terrorist threats or attacks within the United States;

(v) ensure that national preparedness programs and activities for terrorist threats or attacks are developed and are regularly evaluated under appropriate standards and that resources are allocated to improving and sustaining preparedness based on such evaluations; and

(vi) ensure the readiness and coordinated deployment of Federal response teams to respond to terrorist threats or attacks, working with the Assistant to the President for National Security Affairs, when appropriate.

(d) *Prevention*. The Office shall coordinate efforts to prevent terrorist attacks within the United States. In

performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) facilitate the exchange of information among such agencies relating to immigration and visa matters and shipments of cargo; and, working with the Assistant to the President for National Security Affairs, ensure coordination among such agencies to prevent the entry of terrorists and terrorist materials and supplies into the United States and facilitate removal of such terrorists from the United States, when appropriate;

(ii) coordinate efforts to investigate terrorist threats and attacks within the United States; and

(iii) coordinate efforts to improve the security of United States borders, territorial waters, and airspace in order to prevent acts of terrorism within the United States, working with the Assistant to the President for National Security Affairs, when appropriate.

(e) *Protection*. The Office shall coordinate efforts to protect the United States and its critical infrastructure from the consequences of terrorist attacks. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) strengthen measures for protecting energy production, transmission, and distribution services and critical facilities; other utilities; telecommunications; facilities that produce, use, store, or dispose of nuclear material; and other critical infrastructure services and critical facilities within the United States from terrorist attack;

(ii) coordinate efforts to protect critical public and privately owned information systems within the United States from terrorist attack;

(iii) develop criteria for reviewing whether appropriate security measures are in place at major public and privately owned facilities within the United States;

(iv) coordinate domestic efforts to ensure that special events determined by appropriate senior officials to have national significance are protected from terrorist attack;

(v) coordinate efforts to protect transportation systems within the United States, including railways, highways, shipping, ports and waterways, and airports and civilian aircraft, from terrorist attack;

(vi) coordinate efforts to protect United States livestock, agriculture, and systems for the provision of water and food for human use and consumption from terrorist attack; and

(vii) coordinate efforts to prevent unauthorized access to, development of, and unlawful importation into the United States of, chemical, biological, radiological, nuclear, explosive, or other related materials that have the potential to be used in terrorist attacks.

(f) *Response and Recovery*. The Office shall coordinate efforts to respond to and promote recovery from terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) coordinate efforts to ensure rapid restoration of transportation systems, energy production, transmission, and distribution systems; telecommunications; other utilities; and other critical infrastructure facilities after disruption by a terrorist threat or attack;

(ii) coordinate efforts to ensure rapid restoration of public and private critical information systems after disruption by a terrorist threat or attack;

(iii) work with the National Economic Council to coordinate efforts to stabilize United States financial markets after a terrorist threat or attack and manage the immediate economic and financial consequences of the incident;

(iv) coordinate Federal plans and programs to provide medical, financial, and other assistance to victims of terrorist attacks and their families; and

(v) coordinate containment and removal of biological, chemical, radiological, explosive, or other hazardous materials in the event of a terrorist threat or attack involving such hazards and coordinate efforts to mitigate the effects of such an attack.

(g) *Incident Management*. Consistent with applicable law, including the statutory functions of the Secretary of Homeland Security, the Assistant to the President for Homeland Security shall be the official primarily responsible for advising and assisting the President in the coordination of domestic incident management activities of all departments and agencies in the event of a terrorist threat, and during and in the aftermath of terrorist attacks, major disasters, or other emergencies, within the United States. Generally, the Assistant to the President for Homeland Security shall serve as the principal point of contact for and to the President with respect to the coordination of such activities. The Assistant to the President for Homeland Security shall coordinate with the Assistant to the President for National Security Affairs, as appropriate.

(h) *Continuity of Government*. The Assistant to the President for Homeland Security, in coordination with the Assistant to the President for National Security Affairs, shall review plans and preparations for ensuring the continuity of the Federal Government in the event of a terrorist attack that threatens the safety and security of the United States Government or its leadership.

(i) *Public Affairs*. The Office, subject to the direction of the White House Office of Communications, shall coordinate the strategy of the executive branch for communicating with the public in the event of a terrorist threat or attack within the United States. The Office also shall coordinate the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses.

(j) *Cooperation with State and Local Governments and Private Entities*. The Office shall encourage and invite the participation of State and local governments and private entities, as appropriate, in carrying out the Office's functions.

(k) *Review of Legal Authorities and Development of Legislative Proposals*. The Office shall coordinate a periodic review and assessment of the legal authorities available to executive departments and agencies to permit them to perform the functions described in this order. When the Office determines that such legal authorities are inadequate, the Office shall develop, in consultation with executive departments and agencies, proposals for presidential action and legislative proposals for submission to the Office of Management and Budget to enhance the ability of executive departments and agencies to perform those functions. The Office shall work with State and local governments in assessing the adequacy of their legal authorities to permit them to detect, prepare for, prevent, protect against, and recover from terrorist threats and attacks.

(l) *Budget Review*. The Assistant to the President for Homeland Security, in consultation with the Director of the Office of Management and Budget (the ''Director'') and the heads of executive departments and agencies, shall identify programs that contribute to the Administration's strategy for homeland security and, in the development of the President's annual budget submission, shall review and provide advice to the heads of departments and agencies for such programs. The Assistant to the President for Homeland Security shall provide advice to the Director on the level and use of funding in departments and agencies for homeland security-related activities and, prior to the Director's forwarding of the proposed annual budget submission to the President for transmittal to the Congress, shall certify to the Director the funding levels that the Assistant to the President for Homeland Security believes are necessary and appropriate for the homeland security-related activities of the executive branch.

SEC. 4. *Administration*.

(a) The Office of Homeland Security shall be directed by the Assistant to the President for Homeland Security.

(b) The Office of Administration within the Executive Office of the President shall provide the Office of Homeland Security with such personnel, funding, and administrative support, to the extent permitted by law and subject to the availability of appropriations, as directed by the Chief of Staff to carry out the provisions of this order.

(c) Heads of executive departments and agencies are authorized, to the extent permitted by law, to detail or assign personnel of such departments and agencies to the Office of Homeland Security upon request of the Assistant to the President for Homeland Security, subject to the approval of the Chief of Staff.

SEC. 5. *Establishment of Homeland Security Council.*

(a) I hereby establish a Homeland Security Council (the ''Council''), which shall be responsible for advising and assisting the President with respect to all aspects of homeland security. The Council shall serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies.

(b) The Council shall have as its members the President, the Vice President, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Homeland Security, the Director of the Federal Emergency Management Agency, the Director of the Federal Bureau of Investigation, the Director of Central Intelligence, the Assistant to the President for Homeland Security, and such other officers of the executive branch as the President may from time to time designate. The Chief of Staff, the Chief of Staff to the Vice President, the Assistant to the President for National Security Affairs, the Counsel to the President, and the Director of the Office of Management and Budget also are invited to attend any Council meeting. The Secretary of State, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Labor, the Secretary of Commerce, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy shall be invited to attend meetings pertaining to their responsibilities. The heads of other executive departments and agencies and other senior officials shall be invited to attend Council meetings when appropriate.

(c) The Council shall meet at the President's direction. When the President is absent from a meeting of the Council, at the President's direction the Vice President may preside. The Assistant to the President for Homeland Security shall be responsible, at the President's direction, for determining the agenda, ensuring that necessary papers are prepared, and recording Council actions and Presidential decisions.

SEC. 6. *Original Classification Authority.* I hereby delegate the authority to classify information originally as Top Secret, in accordance with Executive Order 12958 [former 50 U.S.C. 3161 note] or any successor Executive Order, to the Assistant to the President for Homeland Security.

SEC. 7. *Continuing Authorities.* This order does not alter the existing authorities of United States Government departments and agencies, including the Department of Homeland Security. All executive departments and agencies are directed to assist the Council and the Assistant to the President for Homeland Security in carrying out the purposes of this order.

SEC. 8. *General Provisions.*

(a) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies or instrumentalities, its officers or employees, or any other person.

(b) References in this order to State and local governments shall be construed to include tribal governments and United States territories and other possessions.

(c) References to the ''United States'' shall be construed to include United States territories and possessions.

SEC. 9. [Amended Ex. Ord. No. 12656, set out as a note under section 5195 of Title 42, The Public Health and Welfare.]

GEORGE W. BUSH.

EXECUTIVE ORDER NO. 13260

Ex. Ord. No. 13260, Mar. 19, 2002, 67 F.R. 13241, as amended by Ex. Ord. No. 13286, § 4, Feb. 28, 2003, 68 F.R. 10619, which established the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security, was revoked by Ex. Ord. No. 13286, § 4, Feb. 28, 2003, 68 F.R. 10619, eff. Mar. 31, 2003.

EX. ORD. NO. 13657. CHANGING THE NAME OF THE NATIONAL SECURITY STAFF TO THE NATIONAL SECURITY COUNCIL STAFF

Ex. Ord. No. 13657, Feb. 10, 2014, 79 F.R. 8823, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reflect my decision to change the name of the National Security Staff to the National Security Council staff, it is hereby ordered as follows:

SECTION 1. *Name Change.* All references to the National Security Staff or Homeland Security Council Staff in any Executive Order or Presidential directive shall be understood to refer to the staff of the National Security Council.

SEC. 2. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 3022. Joint Intelligence Community Council

(a) Joint Intelligence Community Council

There is a Joint Intelligence Community Council.

(b) Membership

The Joint Intelligence Community Council shall consist of the following:

(1) The Director of National Intelligence, who shall chair the Council.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

(8) Such other officers of the United States Government as the President may designate from time to time.

(c) Functions

The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by—

(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and

(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

(d) Meetings

The Director of National Intelligence shall convene regular meetings of the Joint Intelligence Community Council.

(e) Advice and opinions of members other than Chairman

(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Director of National Intelligence to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

(f) Recommendations to Congress

Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.

(July 26, 1947, ch. 343, title I, § 101A, as added Pub. L. 108–458, title I, § 1031, Dec. 17, 2004, 118 Stat. 3677.)

CODIFICATION

Section was formerly classified to section 402–1 of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3023. Director of National Intelligence

(a) Director of National Intelligence

(1) There is a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. Any individual nominated for appointment as Director of National Intelligence shall have extensive national security expertise.

(2) The Director of National Intelligence shall not be located within the Executive Office of the President.

(b) Principal responsibility

Subject to the authority, direction, and control of the President, the Director of National Intelligence shall—

(1) serve as head of the intelligence community;

(2) act as the principal adviser to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and

(3) consistent with section 1018 of the National Security Intelligence Reform Act of 2004, oversee and direct the implementation of the National Intelligence Program.

(c) Prohibition on dual service

The individual serving in the position of Director of National Intelligence shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.

(July 26, 1947, ch. 343, title I, § 102, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3644.)

REFERENCES IN TEXT

Section 1018 of the National Security Intelligence Reform Act of 2004, referred to in subsec. (b)(3), is section 1018 of Pub. L. 108–458, which is set out as a note below.

CODIFICATION

Section was formerly classified to section 403 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 102 of act July 26, 1947, ch. 343, title I, as added and amended Pub. L. 104–293, title VIII, §§ 805(a), 809(a), 810, 811, Oct. 11, 1996, 110 Stat. 3477, 3481, 3482; Pub. L. 105–107, title IV, § 405, Nov. 20, 1997, 111 Stat. 2261; Pub. L. 105–272, title III, § 306, Oct. 20, 1998, 112 Stat. 2401, related to Office of the Director of Central Intelligence prior to repeal by Pub. L. 108–458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See section 3036 of this title.

Another prior section 102 of act July 26, 1947, ch. 343, title I, 61 Stat. 497; act Apr. 4, 1953, ch. 16, 67 Stat. 19; Pub. L. 102–496, title VII, § 704, Oct. 24, 1992, 106 Stat. 3189; Pub. L. 104–93, title VII, § 701, Jan. 6, 1996, 109 Stat. 977; Pub. L. 104–106, div. A, title V, § 570, Feb. 10, 1996, 110 Stat. 353, related to establishment of Central Intelligence Agency and appointment and functions of its Director and Deputy Director prior to repeal by Pub. L. 104–293, title VIII, § 805(a), Oct. 11, 1996, 110 Stat. 3477.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

MERGER OF THE FOREIGN COUNTERINTELLIGENCE PROGRAM AND THE GENERAL DEFENSE INTELLIGENCE PROGRAM

Pub. L. 113–126, title III, § 314, July 7, 2014, 128 Stat. 1399, provided that: "Notwithstanding any other provision of law, the Director of National Intelligence shall carry out the merger of the Foreign Counterintelligence Program into the General Defense Intelligence Program as directed in the classified annex to this Act [see Tables for classification]. The merger shall go into effect no earlier than 30 days after written

notification of the merger is provided to the congressional intelligence committees.''

[For definition of ''congressional intelligence committees'' as used in section 314 of Pub. L. 113–126, set out above, see section 2 of Pub. L. 113–126, set out as a note under section 3003 of this title.]

PRESIDENTIAL GUIDELINES ON IMPLEMENTATION AND PRESERVATION OF AUTHORITIES

Pub. L. 108–458, title I, § 1018, Dec. 17, 2004, 118 Stat. 3670, provided that: ''The President shall issue guidelines to ensure the effective implementation and execution within the executive branch of the authorities granted to the Director of National Intelligence by this title [see Tables for classification] and the amendments made by this title, in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments of the United States Government concerning such departments, including, but not limited to:

''(1) the authority of the Director of the Office of Management and Budget; and

''(2) the authority of the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under—

''(A) section 199 of the Revised Statutes (22 U.S.C. 2651);

''(B) title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.);

''(C) the State Department Basic Authorities Act of 1956 [Act Aug. 1, 1956, ch. 841, see Tables for classification];

''(D) section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)); and

''(E) sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code.''

FINDINGS REGARDING IMPROVEMENT OF EQUALITY OF EMPLOYMENT OPPORTUNITIES IN THE INTELLIGENCE COMMUNITY

Pub. L. 108–177, title III, § 319, Dec. 13, 2003, 117 Stat. 2614, as amended by Pub. L. 108–458, title I, § 1071(g)(3)(A)(iv), (B), Dec. 17, 2004, 118 Stat. 3692; Pub. L. 111–259, title III, § 313(b)(1)(A), (3), Oct. 7, 2010, 124 Stat. 2666, provided that: ''Congress makes the following findings:

''(1) It is the recommendation of the Joint Inquiry of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, that the Intelligence Community should enhance recruitment of a more ethnically and culturally diverse workforce and devise a strategy to capitalize upon the unique cultural and linguistic capabilities of first generation Americans.

''(2) The Intelligence Community could greatly benefit from an increased number of employees who are proficient in foreign languages and knowledgeable of world cultures, especially in foreign languages that are critical to the national security interests of the United States. Particular emphasis should be given to the recruitment of United States citizens whose linguistic capabilities are acutely required for the improvement of the overall intelligence collection and analysis effort of the United States Government.

''(3) The Intelligence Community has a significantly lower percentage of women and minorities than the total workforce of the Federal government and the total civilian labor force.

''(4) Women and minorities continue to be underrepresented in senior grade levels, and in core mission areas, of the intelligence community.''

REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ

Pub. L. 108–177, title III, § 357, Dec. 13, 2003, 117 Stat. 2621, as amended by Pub. L. 108–458, title I, § 1071(g)(3)(A)(vi), Dec. 17, 2004, 118 Stat. 3692, required Director of National Intelligence to submit report to Congress, not later than one year after Dec. 13, 2003, on intelligence lessons learned as a result of Operation Iraqi Freedom.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90–539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91–185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91–626, §§ 1–6, Dec. 31, 1970, 84 Stat. 1872–1874; Pub. L. 93–31, May 8, 1973, 87 Stat. 65; Pub. L. 93–210, § 1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94–361, title VIII, § 801(b), July 14, 1976, 90 Stat. 929; Pub. L. 94–522, title I, §§ 101, 102, title II, §§ 201–213, Oct. 17, 1976, 90 Stat. 2467–2471; Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854; Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 97–269, title VI, §§ 602–611, Sept. 27, 1982, 96 Stat. 1145–1148, 1152–1153; Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 98–618, title III, § 302, Nov. 8, 1984, 98 Stat. 3300; Pub. L. 99–169, title VII, § 702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99–335, title V, §§ 501–506, June 6, 1986, 100 Stat. 622–624; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–569, title III, § 302(a), Oct. 27, 1986, 100 Stat. 3192; Pub. L. 100–178, title IV, §§ 401(a), 402(a), (b)(1), (2), Dec. 2, 1987, 101 Stat. 1012–1014; Pub. L. 100–453, title III, § 302(a), (b)(1), (c)(1), (d)(1), (2), title V, § 502, Sept. 29, 1988, 102 Stat. 1906, 1907, 1909; Pub. L. 101–193, title III, §§ 302–304(a), 307(b), Nov. 30, 1989, 103 Stat. 1703, 1707; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–88, title III, §§ 302–305(a), 306–307(b), Aug. 14, 1991, 105 Stat. 431–433; Pub. L. 102–183, title III, §§ 302(a)–(c), 303(a), 304–306(b), 307, 309(a), 310(a), Dec. 4, 1991, 105 Stat. 1262–1266; Pub. L. 102–496, title III, § 304(b), Oct. 24, 1992, 106 Stat. 3183, known as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, was revised generally by Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3196. As so revised, Pub. L. 88–643, now known as the Central Intelligence Agency Retirement Act, has been transferred to chapter 38 (§ 2001 et seq.) of this title. All notes, Executive orders, and other provisions relating to this Act have been transferred to section 2001 of this title.

EXECUTIVE ORDER NO. 10656

Ex. Ord. No. 10656, Feb. 6, 1956, 21 F.R. 859, which established the President's Board of Consultants on Foreign Intelligence Activities, was revoked by Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, formerly set out below.

EXECUTIVE ORDER NO. 10938

Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, formerly set out below.

EXECUTIVE ORDER NO. 11460

Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, set out below.

EX. ORD. NO. 11984. ABOLITION OF PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12331

Ex. Ord. No. 12331, Oct. 20, 1981, 46 F.R. 51705, which established the President's Foreign Intelligence Advi-

sory Board, was revoked by Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, formerly set out below.

EXECUTIVE ORDER NO. 12537

Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, as amended by Ex. Ord. No. 12624, Jan. 6, 1988, 53 F.R. 489, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, formerly set out as a note under section 3001 of this title.

§ 3024. Responsibilities and authorities of the Director of National Intelligence

(a) Provision of intelligence

(1) The Director of National Intelligence shall be responsible for ensuring that national intelligence is provided—

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

(D) to the Senate and House of Representatives and the committees thereof; and

(E) to such other persons as the Director of National Intelligence determines to be appropriate.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

(b) Access to intelligence

Unless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.

(c) Budget authorities

(1) With respect to budget requests and appropriations for the National Intelligence Program, the Director of National Intelligence shall—

(A) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the intelligence community, and to the heads of such agencies and organizations, guidance for developing the National Intelligence Program budget pertaining to such agencies and organizations;

(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

(C) present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

(2) In addition to the information provided under paragraph (1)(B), the heads of agencies and organizations within the intelligence community shall provide the Director of National Intelligence such other information as the Director shall request for the purpose of determining the annual consolidated National Intelligence Program budget under that paragraph.

(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budget for the Military Intelligence Program or any successor program or programs.

(B) The Director of National Intelligence shall provide guidance for the development of the annual budget for each element of the intelligence community that is not within the National Intelligence Program.

(4) The Director of National Intelligence shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

(5)(A) The Director of National Intelligence shall be responsible for managing appropriations for the National Intelligence Program by directing the allotment or allocation of such appropriations through the heads of the departments containing agencies or organizations within the intelligence community and the Director of the Central Intelligence Agency, with prior notice (including the provision of appropriate supporting information) to the head of the department containing an agency or organization receiving any such allocation or allotment or the Director of the Central Intelligence Agency.

(B) Notwithstanding any other provision of law, pursuant to relevant appropriations Acts for the National Intelligence Program, the Director of the Office of Management and Budget shall exercise the authority of the Director of the Office of Management and Budget to apportion funds, at the exclusive direction of the Director of National Intelligence, for allocation to the elements of the intelligence community through the relevant host executive departments and the Central Intelligence Agency. Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.

(C) The Director of National Intelligence shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations.

(6) Apportionment and allotment of funds under this subsection shall be subject to chapter 13 and section 1517 of title 31 and the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.).

(7)(A) The Director of National Intelligence shall provide a semi-annual report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

(B) The Director of National Intelligence shall report to the President and the Congress not later than 15 days after learning of any instance

in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

(d) Role of Director of National Intelligence in transfer and reprogramming of funds

(1)(A) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the Director of National Intelligence, except in accordance with procedures prescribed by the Director of National Intelligence.

(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made available under the Military Intelligence Program or any successor program or programs.

(2) Subject to the succeeding provisions of this subsection, the Director of National Intelligence may transfer or reprogram funds appropriated for a program within the National Intelligence Program—

(A) to another such program;

(B) to other departments or agencies of the United States Government for the development and fielding of systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; or

(C) to a program funded by appropriations not within the National Intelligence Program to address critical gaps in intelligence information sharing or access capabilities.

(3) The Director of National Intelligence may only transfer or reprogram funds referred to in paragraph (1)(A)—

(A) with the approval of the Director of the Office of Management and Budget; and

(B) after consultation with the heads of departments containing agencies or organizations within the intelligence community to the extent such agencies or organizations are affected, and, in the case of the Central Intelligence Agency, after consultation with the Director of the Central Intelligence Agency.

(4) The amounts available for transfer or reprogramming in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers and reprogrammings, are subject to the provisions of annual appropriations Acts and this subsection.

(5)(A) A transfer or reprogramming of funds may be made under this subsection only if—

(i) the funds are being transferred to an activity that is a higher priority intelligence activity;

(ii) the transfer or reprogramming supports an emergent need, improves program effectiveness, or increases efficiency;

(iii) the transfer or reprogramming does not involve a transfer or reprogramming of funds to a Reserve for Contingencies of the Director of National Intelligence or the Reserve for Contingencies of the Central Intelligence Agency;

(iv) the transfer or reprogramming results in a cumulative transfer or reprogramming of funds out of any department or agency, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $150,000,000, and

(II) that is less than 5 percent of amounts available to a department or agency under the National Intelligence Program; and

(v) the transfer or reprogramming does not terminate an acquisition program.

(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency) to the deputy of such officer.

(6) Funds transferred or reprogrammed under this subsection shall remain available for the same period as the appropriations account to which transferred or reprogrammed.

(7) Any transfer or reprogramming of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer or reprogramming for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer or reprogramming and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer or reprogramming of funds made pursuant to this subsection in any case in which the transfer or reprogramming would not have otherwise required reprogramming notification under procedures in effect as of December 17, 2004.

(e) Transfer of personnel

(1)(A) In addition to any other authorities available under law for such purposes, in the first twelve months after establishment of a new national intelligence center, the Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in consultation with the congressional committees of jurisdiction referred to in subparagraph (B), may transfer not more than 100 personnel authorized for elements of the intelligence community to such center.

(B) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

(i) the congressional intelligence committees;

(ii) the Committees on Appropriations of the Senate and the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(C) The Director shall include in any notice under subparagraph (B) an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(2)(A) The Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in accordance with procedures to be developed by the Director of National Intelligence and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for a period of not more than 2 years.

(B) A transfer of personnel may be made under this paragraph only if—

(i) the personnel are being transferred to an activity that is a higher priority intelligence activity; and

(ii) the transfer supports an emergent need, improves program effectiveness, or increases efficiency.

(C) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

(i) the congressional intelligence committees;

(ii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and

(iii) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(D) The Director shall include in any notice under subparagraph (C) an explanation of the nature of the transfer and how it satisfies the requirements of this paragraph.

(3)(A) In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be used only for the purposes described in subparagraph (B).

(B) Except as provided in subparagraph (C), the Director of National Intelligence may use a full-time equivalent position authorized under subparagraph (A) only for the purpose of providing a temporary transfer of personnel made in accordance with paragraph (2) to an element of the intelligence community to enable such element to increase the total number of personnel authorized for such element, on a temporary basis—

(i) during a period in which a permanent employee of such element is absent to participate in critical language training; or

(ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.

(C) Paragraph (2)(B) shall not apply with respect to a transfer of personnel made under subparagraph (B).

(D) For each of the fiscal years 2010, 2011, and 2012, the Director of National Intelligence shall submit to the congressional intelligence committees an annual report on the use of authorities under this paragraph. Each such report shall include a description of—

(i) the number of transfers of personnel made by the Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;

(ii) the critical language needs that were fulfilled or partially fulfilled through the use of such transfers; and

(iii) the cost to carry out subparagraph (B).

(4) It is the sense of Congress that—

(A) the nature of the national security threats facing the United States will continue to challenge the intelligence community to respond rapidly and flexibly to bring analytic resources to bear against emerging and unforeseen requirements;

(B) both the Office of the Director of National Intelligence and any analytic centers determined to be necessary should be fully and properly supported with appropriate levels of personnel resources and that the President's yearly budget requests adequately support those needs; and

(C) the President should utilize all legal and administrative discretion to ensure that the Director of National Intelligence and all other elements of the intelligence community have the necessary resources and procedures to respond promptly and effectively to emerging and unforeseen national security challenges.

(f) Tasking and other authorities

(1)(A) The Director of National Intelligence shall—

(i) establish objectives, priorities, and guidance for the intelligence community to ensure timely and effective collection, processing, analysis, and dissemination (including access by users to collected data consistent with applicable law and, as appropriate, the guidelines referred to in subsection (b) of this section and analytic products generated by or within the intelligence community) of national intelligence;

(ii) determine requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the intelligence community, including—

(I) approving requirements (including those requirements responding to needs provided by consumers) for collection and analysis; and

(II) resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community; and

(iii) provide advisory tasking to intelligence elements of those agencies and departments not within the National Intelligence Program.

(B) The authority of the Director of National Intelligence under subparagraph (A) shall not apply—

(i) insofar as the President so directs;

(ii) with respect to clause (ii) of subparagraph (A), insofar as the Secretary of Defense exercises tasking authority under plans or arrangements agreed upon by the Secretary of Defense and the Director of National Intelligence; or

(iii) to the direct dissemination of information to State government and local govern-

ment officials and private sector entities pursuant to sections 121 and 482 of title 6.

(2) The Director of National Intelligence shall oversee the National Counterterrorism Center and may establish such other national intelligence centers as the Director determines necessary.

(3)(A) The Director of National Intelligence shall prescribe, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(i) encourage and facilitate assignments and details of personnel to national intelligence centers, and between elements of the intelligence community;

(ii) set standards for education, training, and career development of personnel of the intelligence community;

(iii) encourage and facilitate the recruitment and retention by the intelligence community of highly qualified individuals for the effective conduct of intelligence activities;

(iv) ensure that the personnel of the intelligence community are sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds;

(v) make service in more than one element of the intelligence community a condition of promotion to such positions within the intelligence community as the Director shall specify; and

(vi) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters.

(B) Policies prescribed under subparagraph (A) shall not be inconsistent with the personnel policies otherwise applicable to members of the uniformed services.

(4) The Director of National Intelligence shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program.

(5) The Director of National Intelligence shall ensure the elimination of waste and unnecessary duplication within the intelligence community.

(6) The Director of National Intelligence shall establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for national intelligence purposes, except that the Director shall have no authority to direct or undertake electronic surveillance or physical search operations pursuant to that Act unless authorized by statute or Executive order.

(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting an accountability review under subparagraph (A).

(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under subparagraph (A) and the Director's recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

(D) The requirements of this paragraph shall not be construed to limit any authority of the Director of National Intelligence under subsection (m) or with respect to supervision of the Central Intelligence Agency.

(8) The Director of National Intelligence shall perform such other functions as the President may direct.

(9) Nothing in this subchapter shall be construed as affecting the role of the Department of Justice or the Attorney General under the Foreign Intelligence Surveillance Act of 1978.

(g) Intelligence information sharing

(1) The Director of National Intelligence shall have principal authority to ensure maximum availability of and access to intelligence information within the intelligence community consistent with national security requirements. The Director of National Intelligence shall—

(A) establish uniform security standards and procedures;

(B) establish common information technology standards, protocols, and interfaces;

(C) ensure development of information technology systems that include multi-level security and intelligence integration capabilities;

(D) establish policies and procedures to resolve conflicts between the need to share intelligence information and the need to protect intelligence sources and methods;

(E) develop an enterprise architecture for the intelligence community and ensure that elements of the intelligence community comply with such architecture;

(F) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program; and

(G) in accordance with Executive Order No. 13526 (75 Fed. Reg. 707; relating to classified national security information) (or any subsequent corresponding executive order), and part 2001 of title 32, Code of Federal Regulations (or any subsequent corresponding regulation), establish—

(i) guidance to standardize, in appropriate cases, the formats for classified and unclassified intelligence products created by elements of the intelligence community for purposes of promoting the sharing of intelligence products; and

(ii) policies and procedures requiring the increased use, in appropriate cases, and including portion markings, of the classification of portions of information within one intelligence product.

(2) The President shall ensure that the Director of National Intelligence has all necessary support and authorities to fully and effectively implement paragraph (1).

(3) Except as otherwise directed by the President or with the specific written agreement of the head of the department or agency in question, a Federal agency or official shall not be considered to have met any obligation to provide any information, report, assessment, or other material (including unevaluated intelligence information) to that department or agency solely by virtue of having provided that information, report, assessment, or other material to the Director of National Intelligence or the National Counterterrorism Center.

(4) The Director of National Intelligence shall, in a timely manner, report to Congress any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively ensure maximum availability of access to intelligence information within the intelligence community consistent with the protection of the national security of the United States.

(h) Analysis

To ensure the most accurate analysis of intelligence is derived from all sources to support national security needs, the Director of National Intelligence shall—

(1) implement policies and procedures—

(A) to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community;

(B) to ensure that analysis is based upon all sources available; and

(C) to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

(2) ensure that resource allocation for intelligence analysis is appropriately proportional to resource allocation for intelligence collection systems and operations in order to maximize analysis of all collected data;

(3) ensure that differences in analytic judgment are fully considered and brought to the attention of policymakers; and

(4) ensure that sufficient relationships are established between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

(i) Protection of intelligence sources and methods

(1) The Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.

(2) Consistent with paragraph (1), in order to maximize the dissemination of intelligence, the Director of National Intelligence shall establish and implement guidelines for the intelligence community for the following purposes:

(A) Classification of information under applicable law, Executive orders, or other Presidential directives.

(B) Access to and dissemination of intelligence, both in final form and in the form when initially gathered.

(C) Preparation of intelligence products in such a way that source information is removed to allow for dissemination at the lowest level of classification possible or in unclassified form to the extent practicable.

(3) The Director may only delegate a duty or authority given the Director under this subsection to the Principal Deputy Director of National Intelligence.

(j) Uniform procedures for classified information

The Director of National Intelligence, subject to the direction of the President, shall—

(1) establish uniform standards and procedures for the grant of access to sensitive compartmented information to any officer or employee of any agency or department of the United States and to employees of contractors of those agencies or departments;

(2) ensure the consistent implementation of those standards and procedures throughout such agencies and departments;

(3) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by those agencies;

(4) ensure that the process for investigation and adjudication of an application for access to sensitive compartmented information is performed in the most expeditious manner possible consistent with applicable standards for national security;

(5) ensure that the background of each employee or officer of an element of the intelligence community, each contractor to an element of the intelligence community, and each individual employee of such a contractor who has been determined to be eligible for access to classified information is monitored on a continual basis under standards developed by the Director, including with respect to the frequency of evaluation, during the period of eligibility of such employee or officer of an element of the intelligence community, such contractor, or such individual employee to such a contractor to determine whether such employee or officer of an element of the intelligence community, such contractor, and such individual employee of such a contractor continues to meet the requirements for eligibility for access to classified information; and

(6) develop procedures to require information sharing between elements of the intelligence community concerning potentially derogatory security information regarding an employee or officer of an element of the intelligence community, a contractor to an element of the intelligence community, or an individual employee of such a contractor that

may impact the eligibility of such employee or officer of an element of the intelligence community, such contractor, or such individual employee of such a contractor for a security clearance.

(k) Coordination with foreign governments

Under the direction of the President and in a manner consistent with section 3927 of title 22, the Director of National Intelligence shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(*l*) Enhanced personnel management

(1)(A) The Director of National Intelligence shall, under regulations prescribed by the Director, provide incentives for personnel of elements of the intelligence community to serve—

(i) on the staff of the Director of National Intelligence;

(ii) on the staff of the national intelligence centers;

(iii) on the staff of the National Counterterrorism Center; and

(iv) in other positions in support of the intelligence community management functions of the Director.

(B) Incentives under subparagraph (A) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(2)(A) Notwithstanding any other provision of law, the personnel of an element of the intelligence community who are assigned or detailed under paragraph (1)(A) to service under the Director of National Intelligence shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(B) The Director may prescribe regulations to carry out this paragraph.

(3)(A) The Director of National Intelligence shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.

(B) The mechanisms prescribed under subparagraph (A) may include the following:

(i) The establishment of special occupational categories involving service, over the course of a career, in more than one element of the intelligence community.

(ii) The provision of rewards for service in positions undertaking analysis and planning of operations involving two or more elements of the intelligence community.

(iii) The establishment of requirements for education, training, service, and evaluation for service involving more than one element of the intelligence community.

(C) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate for civilian personnel within the intelligence community the joint officer management policies established by chapter 38 of title 10 and the other amendments made by title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433).

(4)(A) Except as provided in subparagraph (B) and subparagraph (D), this subsection shall not apply with respect to personnel of the elements of the intelligence community who are members of the uniformed services.

(B) Mechanisms that establish requirements for education and training pursuant to paragraph (3)(B)(iii) may apply with respect to members of the uniformed services who are assigned to an element of the intelligence community funded through the National Intelligence Program, but such mechanisms shall not be inconsistent with personnel policies and education and training requirements otherwise applicable to members of the uniformed services.

(C) The personnel policies and programs developed and implemented under this subsection with respect to law enforcement officers (as that term is defined in section 5541(3) of title 5) shall not affect the ability of law enforcement entities to conduct operations or, through the applicable chain of command, to control the activities of such law enforcement officers.

(D) Assignment to the Office of the Director of National Intelligence of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer management policies prescribed by chapter 38 of title 10 and other provisions of that title.

(m) Additional authority with respect to personnel

(1) In addition to the authorities under subsection (f)(3) of this section, the Director of National Intelligence may exercise with respect to the personnel of the Office of the Director of National Intelligence any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 [50 U.S.C. 3501 et seq.], and other applicable provisions of law, as of December 17, 2004, to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(2) Employees and applicants for employment of the Office of the Director of National Intelligence shall have the same rights and protections under the Office of the Director of National Intelligence as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949 [50 U.S.C. 3501 et seq.], and other applicable provisions of law, as of December 17, 2004.

(n) Acquisition and other authorities

(1) In carrying out the responsibilities and authorities under this section, the Director of National Intelligence may exercise the acquisition and appropriations authorities referred to in the Central Intelligence Agency Act of 1949 [50 U.S.C. 3501 et seq.] other than the authorities referred to in section 8(b) of that Act [50 U.S.C. 3510(b)].

(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be deemed to be a reference to the Director of National Intelligence or the Principal Deputy Director of National Intelligence.

(3)(A) Any determination or decision to be made under an authority referred to in paragraph (1) by the head of an agency may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final.

(B) Except as provided in subparagraph (C), the Director of National Intelligence or the Principal Deputy Director of National Intelligence may, in such official's discretion, delegate to any officer or other official of the Office of the Director of National Intelligence any authority to make a determination or decision as the head of the agency under an authority referred to in paragraph (1).

(C) The limitations and conditions set forth in section 3(d) of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3503(d)] shall apply to the exercise by the Director of National Intelligence of an authority referred to in paragraph (1).

(D) Each determination or decision required by an authority referred to in the second sentence of section 3(d) of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3503(d)] shall be based upon written findings made by the official making such determination or decision, which findings shall be final and shall be available within the Office of the Director of National Intelligence for a period of at least six years following the date of such determination or decision.

(4)(A) In addition to the authority referred to in paragraph (1), the Director of National Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3503, 3510(a)] for an acquisition by such element that is more than 50 percent funded under the National Intelligence Program.

(B) The head of an element of the intelligence community may not exercise an authority referred to in subparagraph (A) until—

(i) the head of such element (without delegation) submits to the Director of National Intelligence a written request that includes—

(I) a description of such authority requested to be exercised;

(II) an explanation of the need for such authority, including an explanation of the reasons that other authorities are insufficient; and

(III) a certification that the mission of such element would be—

(aa) impaired if such authority is not exercised; or

(bb) significantly and measurably enhanced if such authority is exercised; and

(ii) the Director of National Intelligence issues a written authorization that includes—

(I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and

(II) a justification to support the exercise of such authority.

(C) A request and authorization to exercise an authority referred to in subparagraph (A) may be made with respect to an individual acquisition or with respect to a specific class of acquisitions described in the request and authorization referred to in subparagraph (B).

(D)(i) A request from a head of an element of the intelligence community located within one of the departments described in clause (ii) to exercise an authority referred to in subparagraph (A) shall be submitted to the Director of National Intelligence in accordance with any procedures established by the head of such department.

(ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of the Treasury.

(E)(i) The head of an element of the intelligence community may not be authorized to utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence (without delegation) may authorize the use of such an authority for not more than 6 years.

(ii) Each authorization to utilize an authority referred to in subparagraph (A) may be extended in accordance with the requirements of subparagraph (B) for successive periods of not more than 3 years, except that the Director of National Intelligence (without delegation) may authorize an extension period of not more than 6 years.

(F) Subject to clauses (i) and (ii) of subparagraph (E), the Director of National Intelligence may only delegate the authority of the Director under subparagraphs (A) through (E) to the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence.

(G) The Director of National Intelligence shall submit—

(i) to the congressional intelligence committees a notification of an authorization to exercise an authority referred to in subparagraph (A) or an extension of such authorization that includes the written authorization referred to in subparagraph (B)(ii); and

(ii) to the Director of the Office of Management and Budget a notification of an authorization to exercise an authority referred to in subparagraph (A) for an acquisition or class of acquisitions that will exceed $50,000,000 annually.

(H) Requests and authorizations to exercise an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 6 years following the date of such request or authorization.

(I) Nothing in this paragraph may be construed to alter or otherwise limit the authority of the Central Intelligence Agency to independently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3503, 3510(a)].

(*o*) Consideration of views of elements of intelligence community

In carrying out the duties and responsibilities under this section, the Director of National Intelligence shall take into account the views of a head of a department containing an element of the intelligence community and of the Director of the Central Intelligence Agency.

(p) Responsibility of Director of National Intelligence regarding National Intelligence Program budget concerning the Department of Defense

Subject to the direction of the President, the Director of National Intelligence shall, after consultation with the Secretary of Defense, ensure that the National Intelligence Program budgets for the elements of the intelligence community that are within the Department of Defense are adequate to satisfy the national intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, and wherever such elements are performing Government-wide functions, the needs of other Federal departments and agencies.

(q) Acquisitions of major systems

(1) For each intelligence program within the National Intelligence Program for the acquisition of a major system, the Director of National Intelligence shall—

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria, except that with respect to Department of Defense programs the Director shall consult with the Secretary of Defense;

(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

(C) periodically—

(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and

(ii) submit to Congress a report on the results of such review and assessment.

(2) If the Director of National Intelligence and the Secretary of Defense are unable to reach an agreement on a milestone decision under paragraph (1)(B), the President shall resolve the conflict.

(3) Nothing in this subsection may be construed to limit the authority of the Director of National Intelligence to delegate to any other official any authority to perform the responsibilities of the Director under this subsection.

(4) In this subsection:

(A) The term ''intelligence program'', with respect to the acquisition of a major system, means a program that—

(i) is carried out to acquire such major system for an element of the intelligence community; and

(ii) is funded in whole out of amounts available for the National Intelligence Program.

(B) The term ''major system'' has the meaning given such term in section 109 of title 41.

(r) Performance of common services

The Director of National Intelligence shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the Director of National Intelligence determines can be more efficiently accomplished in a consolidated manner.

(s) Pay authority for critical positions

(1) Notwithstanding any pay limitation established under any other provision of law applicable to employees in elements of the intelligence community, the Director of National Intelligence may, in coordination with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, grant authority to the head of a department or agency to fix the rate of basic pay for one or more positions within the intelligence community at a rate in excess of any applicable limitation, subject to the provisions of this subsection. The exercise of authority so granted is at the discretion of the head of the department or agency employing the individual in a position covered by such authority, subject to the provisions of this subsection and any conditions established by the Director of National Intelligence when granting such authority.

(2) Authority under this subsection may be granted or exercised only—

(A) with respect to a position that requires an extremely high level of expertise and is critical to successful accomplishment of an important mission; and

(B) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

(3) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

(4) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 of title 5, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

(5) Any grant of authority under this subsection for a position shall terminate at the discretion of the Director of National Intelligence.

(6)(A) The Director of National Intelligence shall notify the congressional intelligence committees not later than 30 days after the date on which the Director grants authority to the head of a department or agency under this subsection.

(B) The head of a department or agency to which the Director of National Intelligence grants authority under this subsection shall notify the congressional intelligence committees and the Director of the exercise of such authority not later than 30 days after the date on which such head exercises such authority.

(t) Award of rank to members of the Senior National Intelligence Service

(1) The President, based on the recommendation of the Director of National Intelligence, may award a rank to a member of the Senior National Intelligence Service or other intelligence community senior civilian officer not already covered by such a rank award program in the same manner in which a career appointee of an agency may be awarded a rank under section 4507 of title 5.

(2) The President may establish procedures to award a rank under paragraph (1) to a member of the Senior National Intelligence Service or a senior civilian officer of the intelligence community whose identity as such a member or officer is classified information (as defined in section 3126(1)[1] of this title).

(u) Conflict of interest regulations

(1) The Director of National Intelligence, in consultation with the Director of the Office of Government Ethics, shall issue regulations prohibiting an officer or employee of an element of the intelligence community from engaging in outside employment if such employment creates a conflict of interest or appearance thereof.

(2) The Director of National Intelligence shall annually submit to the congressional intelligence committees a report describing all outside employment for officers and employees of elements of the intelligence community that was authorized by the head of an element of the intelligence community during the preceding calendar year. Such report shall be submitted each year on the date provided in section 3106 of this title.

(v) Authority to establish positions in excepted service

(1) The Director of National Intelligence, with the concurrence of the head of the covered department concerned and in consultation with the Director of the Office of Personnel Management, may—

(A) convert competitive service positions, and the incumbents of such positions, within an element of the intelligence community in such department, to excepted service positions as the Director of National Intelligence determines necessary to carry out the intelligence functions of such element; and

(B) establish new positions in the excepted service within an element of the intelligence community in such department, if the Director of National Intelligence determines such positions are necessary to carry out the intelligence functions of such element.

(2) An incumbent occupying a position on January 3, 2012, selected to be converted to the excepted service under this section shall have the right to refuse such conversion. Once such individual no longer occupies the position, the position may be converted to the excepted service.

(3) In this subsection, the term ''covered department'' means the Department of Energy, the Department of Homeland Security, the Department of State, or the Department of the Treasury.

(w) Nuclear Proliferation Assessment Statements intelligence community addendum

The Director of National Intelligence, in consultation with the heads of the appropriate elements of the intelligence community and the Secretary of State, shall provide to the President, the congressional intelligence committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate an addendum to each Nuclear Proliferation Assessment Statement accompanying a civilian nuclear cooperation agreement, containing a comprehensive analysis of the country's export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries.

(x) Requirements for intelligence community contractors

The Director of National Intelligence, in consultation with the head of each department of the Federal Government that contains an element of the intelligence community and the Director of the Central Intelligence Agency, shall—

(1) ensure that—

(A) any contractor to an element of the intelligence community with access to a classified network or classified information develops and operates a security plan that is consistent with standards established by the Director of National Intelligence for intelligence community networks; and

(B) each contract awarded by an element of the intelligence community includes provisions requiring the contractor comply with such plan and such standards;

(2) conduct periodic assessments of each security plan required under paragraph (1)(A) to ensure such security plan complies with the requirements of such paragraph; and

(3) ensure that the insider threat detection capabilities and insider threat policies of the intelligence community apply to facilities of contractors with access to a classified network.

(July 26, 1947, ch. 343, title I, § 102A, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3644; amended Pub. L. 111–258, § 5(a), Oct. 7, 2010, 124 Stat. 2650; Pub. L. 111–259, title III, §§ 303, 304, 306, 307, 326, title IV, §§ 401, 402(a), title VIII, § 804(2), Oct. 7, 2010, 124 Stat. 2658, 2659, 2661, 2662, 2683, 2708, 2747; Pub. L. 112–87, title III, §§ 304, 305, 311(d), Jan. 3, 2012, 125 Stat. 1880, 1881, 1886; Pub. L. 113–126, title III, § 329(b)(2), title V, §§ 501, 502(a), July 7, 2014, 128 Stat. 1406, 1411, 1412.)

REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (c)(6), is Pub. L.

[1] See References in Text note below.

93–344, July 12, 1974, 88 Stat. 297. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (f)(6), (9), is Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to chapter 36 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Executive Order No. 13526, referred to in subsec. (g)(1)(G), is set out as a note under section 3161 of this title.

The Goldwater-Nichols Department of Defense Reorganization Act of 1986, referred to in subsec. (*l*)(3)(C), is Pub. L. 99–433, Oct. 1, 1986, 100 Stat. 992. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 111 of Title 10, Armed Forces, and Tables.

The Central Intelligence Agency Act of 1949, referred to in subsecs. (m) and (n)(1), is act June 20, 1949, ch. 227, 63 Stat. 208, which was formerly classified generally to section 403a et seq. of this title prior to editorial reclassification in this title and is now classified generally to chapter 46 (§ 3501 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Section 3126(1) of this title, referred to in subsec. (t)(2), was in the original ''section 606(1)'', meaning section 606(1) of act July 26, 1947, which was translated as reading ''section 605(1)'', to reflect the probable intent of Congress and the renumbering of section 606 as 605 by section 310(a)(4)(B) of Pub. L. 112–277.

CODIFICATION

Section was formerly classified to section 403–1 of this title prior to editorial reclassification and renumbering as this section.

In subsec. (q)(4)(B), ''section 109 of title 41'' substituted for ''section 4(9) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 403(9))'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 102A of act July 26, 1947, ch. 343, title I, as added Pub. L. 104–293, title VIII, § 805(b), Oct. 11, 1996, 110 Stat. 3479, provided there is a Central Intelligence Agency and described its function prior to repeal by Pub. L. 108–458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See section 3035 of this title.

Another prior section 102a of act July 26, 1947, ch. 343, title I, as added Pub. L. 98–215, title IV, § 403, Dec. 9, 1983, 97 Stat. 1477, related to appointment of Director of the Intelligence Community Staff prior to repeal by Pub. L. 102–496, title VII, § 705(a)(1), Oct. 24, 1992, 106 Stat. 3190.

AMENDMENTS

2014—Subsec. (g)(4). Pub. L. 113–126, § 329(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''Not later than February 1 of each year, the Director of National Intelligence shall submit to the President and to the Congress an annual report that identifies any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively implement paragraph (1).''

Subsec. (j). Pub. L. 113–126, § 501(1), substituted ''classified information'' for ''sensitive compartmented information'' in heading.

Subsec. (j)(5), (6). Pub. L. 113–126, § 501(2)–(4), added pars. (5) and (6).

Subsec. (x). Pub. L. 113–126, § 502(a), added subsec. (x).

2012—Subsec. (e)(3)(D). Pub. L. 112–87, § 311(d), substituted ''For each of the fiscal years 2010, 2011, and 2012, the'' for ''The'' in introductory provisions.

Subsec. (v). Pub. L. 112–87, § 304, added subsec. (v).

Subsec. (w). Pub. L. 112–87, § 305, added subsec. (w).

2010—Subsec. (c)(3)(A). Pub. L. 111–259, § 804(2)(A), substituted ''annual budget for the Military Intelligence Program or any successor program or programs'' for ''annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities''.

Subsec. (d)(1)(B). Pub. L. 111–259, § 804(2)(B)(i), substituted ''Military Intelligence Program or any successor program or programs'' for ''Joint Military Intelligence Program''.

Subsec. (d)(2). Pub. L. 111–259, § 402(a), substituted ''Program—'' for ''Program to another such program.'' and added subpars. (A) to (C).

Subsec. (d)(3). Pub. L. 111–259, § 804(2)(B)(ii), substituted ''paragraph (1)(A)'' for ''subparagraph (A)'' in introductory provisions.

Subsec. (d)(5)(A). Pub. L. 111–259, § 804(2)(B)(iii)(I), struck out ''or personnel'' after ''funds'' in introductory provisions.

Subsec. (d)(5)(B). Pub. L. 111–259, § 804(2)(B)(iii)(II), substituted ''delegated by the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)'' for ''delegated by the head of the department or agency involved''.

Subsec. (e)(3), (4). Pub. L. 111–259, § 306, added par. (3) and redesignated former par. (3) as (4).

Subsec. (f)(7) to (9). Pub. L. 111–259, § 401, added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

Subsec. (g)(1)(G). Pub. L. 111–258 added subpar. (G).

Subsec. (*l*)(2)(B). Pub. L. 111–259, § 804(2)(C), substituted ''paragraph'' for ''section''.

Subsec. (n). Pub. L. 111–259, § 804(2)(D), inserted ''and other'' after ''Acquisition'' in the heading.

Subsec. (n)(4). Pub. L. 111–259, § 326, added par. (4).

Subsecs. (s) to (u). Pub. L. 111–259, §§ 303, 304, 307, added subsecs. (s) to (u).

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–126, title V, § 502(b), July 7, 2014, 128 Stat. 1412, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to contracts entered into or renewed after the date of the enactment of this Act [July 7, 2014].''

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

INSIDER THREAT DETECTION PROGRAM

Pub. L. 112–18, title IV, § 402, June 8, 2011, 125 Stat. 227, as amended by Pub. L. 112–277, title III, § 304, Jan. 14, 2013, 126 Stat. 2471, provided that:

''(a) INITIAL OPERATING CAPABILITY.—Not later than October 1, 2013, the Director of National Intelligence shall establish an initial operating capability for an effective automated insider threat detection program for the information resources in each element of the intelligence community in order to detect unauthorized access to, or use or transmission of, classified intelligence.

''(b) FULL OPERATING CAPABILITY.—Not later than October 1, 2014, the Director of National Intelligence shall ensure the program described in subsection (a) has reached full operating capability.

''(c) REPORT.—Not later than December 1, 2011, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the resources required to implement the insider threat de-

tection program referred to in subsection (a) and any other issues related to such implementation the Director considers appropriate to include in the report.

''(d) INFORMATION RESOURCES DEFINED.—In this section, the term 'information resources' means networks, systems, workstations, servers, routers, applications, databases, websites, online collaboration environments, and any other information resources in an element of the intelligence community designated by the Director of National Intelligence.''

[For definitions of ''intelligence community'' and ''congressional intelligence committees'' as used in section 402 of Pub. L. 112–18, set out above, see section 2 of Pub. L. 112–18, set out below.]

JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY

Pub. L. 108–458, title I, § 1013, Dec. 17, 2004, 118 Stat. 3662, provided that:

''(a) DEVELOPMENT OF PROCEDURES.—The Director of National Intelligence, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

''(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

''(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

''(B) exchange of information between the Secretary and the Director of the Central Intelligence Agency to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

''(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, a mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

''(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act [Dec. 17, 2004], the Director of National Intelligence shall submit to the congressional defense committees (as defined in section 101 of title 10, United States Code) and the congressional intelligence committees (as defined in section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7)) [now 50 U.S.C. 3003(7)]) a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.''

ALTERNATIVE ANALYSIS OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY

Pub. L. 108–458, title I, § 1017, Dec. 17, 2004, 118 Stat. 3670, provided that:

''(a) IN GENERAL.—Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see Effective Date of 2004 Amendment; Transition Provisions note set out under section 3001 of this title], the Director of National Intelligence shall establish a process and assign an individual or entity the responsibility for ensuring that, as appropriate, elements of the intelligence community conduct alternative analysis (commonly referred to as 'red-team analysis') of the information and conclusions in intelligence products.

''(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives on the implementation of subsection (a).''

ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS

Pub. L. 108–458, title VII, § 7201(e), Dec. 17, 2004, 118 Stat. 3813, provided that:

''(1) IN GENERAL.—The Director of National Intelligence shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.''

INTELLIGENCE COMMUNITY USE OF NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

Pub. L. 108–458, title VIII, § 8101, Dec. 17, 2004, 118 Stat. 3864, provided that:

''(a) IN GENERAL.—The Director of National Intelligence shall establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.

''(b) PURPOSE.—The purpose of the relationship under subsection (a) shall be to permit the intelligence community to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.''

PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY

Pub. L. 108–177, title III, § 317, Dec. 13, 2003, 117 Stat. 2611, as amended by Pub. L. 108–458, title I, §§ 1071(g)(3)(A)(i), (ii), 1072(d)(2)(A), Dec. 17, 2004, 118 Stat. 3692, 3693, required Director of National Intelligence, in coordination with Secretary of Defense, to carry out pilot program to assess feasibility and advisability of permitting intelligence analysts of various elements of intelligence community to access and analyze signals intelligence of the National Security Agency and other selected intelligence from databases of other elements of intelligence community in order to achieve certain objectives; pilot program was to commence not later than Dec. 31, 2003, be assessed not later than Feb. 1, 2004, and a report on the assessment submitted to Congress.

STANDARDIZED TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET

Pub. L. 107–306, title III, § 352, Nov. 27, 2002, 116 Stat. 2401, as amended by Pub. L. 108–458, title I, § 1071(g)(2)(D), Dec. 17, 2004, 118 Stat. 3691, provided that:

''(a) METHOD OF TRANSLITERATION REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 27, 2002], the Director of Central Intelligence shall provide for a standardized method for transliterating into the Roman alphabet personal and place names originally rendered in any language that uses an alphabet other than the Roman alphabet.

''(b) USE BY INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure the use of the method established under subsection (a) in—

''(1) all communications among the elements of the intelligence community; and

''(2) all intelligence products of the intelligence community.''

STANDARDS FOR SPELLING OF FOREIGN NAMES AND PLACES AND FOR USE OF GEOGRAPHIC COORDINATES

Pub. L. 105–107, title III, § 309, Nov. 20, 1997, 111 Stat. 2253, provided that:

''(a) SURVEY OF CURRENT STANDARDS.—

''(1) SURVEY.—The Director of Central Intelligence shall carry out a survey of current standards for the spelling of foreign names and places, and the use of geographic coordinates for such places, among the elements of the intelligence community.

''(2) REPORT.—Not later than 90 days after the date of enactment of this Act [Nov. 20, 1997], the Director shall submit to the congressional intelligence committees a report on the survey carried out under paragraph (1). The report shall be submitted in unclassified form, but may include a classified annex.

''(b) GUIDELINES.—

''(1) ISSUANCE.—Not later than 180 days after the date of enactment of this Act, the Director shall issue guidelines to ensure the use of uniform spelling of foreign names and places and the uniform use of geographic coordinates for such places. The guidelines shall apply to all intelligence reports, intelligence products, and intelligence databases prepared and utilized by the elements of the intelligence community.

''(2) BASIS.—The guidelines under paragraph (1) shall, to the maximum extent practicable, be based on current United States Government standards for the transliteration of foreign names, standards for foreign place names developed by the Board on Geographic Names, and a standard set of geographic coordinates.

''(3) SUBMITTAL TO CONGRESS.—The Director shall submit a copy of the guidelines to the congressional intelligence committees.

''(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means the following:

''(1) The Select Committee on Intelligence of the Senate.

''(2) The Permanent Select Committee on Intelligence of the House of Representatives.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of this title.]

PERIODIC REPORTS ON EXPENDITURES

Pub. L. 104–293, § 807(c), Oct. 11, 1996, 110 Stat. 3480, provided that: ''Not later than January 1, 1997, the Director of Central Intelligence and the Secretary of Defense shall prescribe guidelines to ensure prompt reporting to the Director and the Secretary on a periodic basis of budget execution data for all national, defense-wide, and tactical intelligence activities.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of this title.]

DATABASE PROGRAM TRACKING

Pub. L. 104–293, title VIII, § 807(d), Oct. 11, 1996, 110 Stat. 3481, provided that: ''Not later than January 1, 1999, the Director of Central Intelligence and the Secretary of Defense shall develop and implement a database to provide timely and accurate information on the amounts, purposes, and status of the resources, including periodic budget execution updates, for all national, defense-wide, and tactical intelligence activities.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of this title.]

DEFINITIONS

Pub. L. 112–18, § 2, June 8, 2011, 125 Stat. 224, provided that: ''In this Act [see Tables for classification]:

''(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate; and

''(B) the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].''

§ 3025. Office of the Director of National Intelligence

(a) Office of Director of National Intelligence

There is an Office of the Director of National Intelligence.

(b) Function

The function of the Office of the Director of National Intelligence is to assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director under this Act and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

(c) Composition

The Office of the Director of National Intelligence is composed of the following:

(1) The Director of National Intelligence.

(2) The Principal Deputy Director of National Intelligence.

(3) Any Deputy Director of National Intelligence appointed under section 3026 of this title.

(4) The National Intelligence Council.

(5) The General Counsel.

(6) The Civil Liberties Protection Officer.

(7) The Director of Science and Technology.

(8) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).

(9) The Chief Information Officer of the Intelligence Community.

(10) The Inspector General of the Intelligence Community.

(11) The Director of the National Counterterrorism Center.

(12) The Director of the National Counter Proliferation Center.

(13) The Chief Financial Officer of the Intelligence Community.

(14) Such other offices and officials as may be established by law or the Director may es-

tablish or designate in the Office, including national intelligence centers.

(d) Staff

(1) To assist the Director of National Intelligence in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the Director of National Intelligence a professional staff having an expertise in matters relating to such duties and responsibilities, and may establish permanent positions and appropriate rates of pay with respect to that staff.

(2) The staff of the Office of the Director of National Intelligence under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the Director of National Intelligence under section 1091 of the National Security Intelligence Reform Act of 2004.

(e) Temporary filling of vacancies

With respect to filling temporarily a vacancy in an office within the Office of the Director of National Intelligence (other than that of the Director of National Intelligence), section 3345(a)(3) of title 5 may be applied—

(1) in the matter preceding subparagraph (A), by substituting ''an element of the intelligence community, as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)),''[1] for ''such Executive agency''; and

(2) in subparagraph (A), by substituting ''the intelligence community'' for ''such agency''.

(f) Location of the Office of the Director of National Intelligence

The headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40.

(July 26, 1947, ch. 343, title I, § 103, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3655; amended Pub. L. 111–259, title IV, §§ 403, 407(b), title VIII, § 804(3), Oct. 7, 2010, 124 Stat. 2709, 2721, 2747; Pub. L. 112–87, title IV, § 405, Jan. 3, 2012, 125 Stat. 1888.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), probably means Pub. L. 108–458, Dec. 17, 2004, 118 Stat. 3638, known as the Intelligence Reform and Terrorism Prevention Act of 2004. For complete classification of this Act to the Code, see Tables.

Section 1091 of the National Security Intelligence Reform Act of 2004, referred to in subsec. (d)(2), is section 1091 of Pub. L. 108–458, which is set out as a note under section 3001 of this title.

Section 3 of the National Security Act of 1947, referred to in subsec. (e)(1), was classified to section 401a of this title prior to editorial reclassification and renumbering as section 3003 of this title.

CODIFICATION

Section was formerly classified to section 403–3 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

[1] See References in Text note below.

PRIOR PROVISIONS

A prior section 103 of act July 26, 1947, ch. 343, title I, as added Pub. L. 102–496, title VII, § 705(a)(3), Oct. 24, 1992, 106 Stat. 3190; amended Pub. L. 103–178, title V, § 502, Dec. 3, 1993, 107 Stat. 2038; Pub. L. 104–293, title VIII, §§ 806, 807(a), Oct. 11, 1996, 110 Stat. 3479, 3480; Pub. L. 107–56, title IX, § 901, Oct. 26, 2001, 115 Stat. 387, related to responsibilities of Director of Central Intelligence, prior to repeal by Pub. L. 108–458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See sections 3024 and 3036 of this title.

Another prior section 103 of act July 26, 1947, was renumbered section 107 and is classified to section 3042 of this title.

AMENDMENTS

2012—Subsecs. (e), (f). Pub. L. 112–87 added subsec. (e) and redesignated former subsec. (e) as (f).

2010—Subsec. (b). Pub. L. 111–259, § 804(3), struck out '', the National Security Act of 1947 (50 U.S.C. 401 et seq.),'' after ''this Act''.

Subsec. (c)(9) to (14). Pub. L. 111–259, § 407(b), added pars. (9) to (13) and redesignated former par. (9) as (14).

Subsec. (e). Pub. L. 111–259, § 403, amended subsec. (e) generally. Prior to amendment, text read as follows: ''Commencing as of October 1, 2008, the Office of the Director of National Intelligence may not be co-located with any other element of the intelligence community.''

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3026. Deputy Directors of National Intelligence

(a) Principal Deputy Director of National Intelligence

(1) There is a Principal Deputy Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in the position of Principal Deputy Director of National Intelligence, the Director of National Intelligence shall recommend to the President an individual for appointment as Principal Deputy Director of National Intelligence.

(3) Any individual nominated for appointment as Principal Deputy Director of National Intelligence shall have extensive national security experience and management expertise.

(4) The individual serving as Principal Deputy Director of National Intelligence shall not, while so serving, serve in any capacity in any other element of the intelligence community.

(5) The Principal Deputy Director of National Intelligence shall assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director.

(6) The Principal Deputy Director of National Intelligence shall act for, and exercise the powers of, the Director of National Intelligence during the absence or disability of the Director of National Intelligence or during a vacancy in the position of Director of National Intelligence.

(b) Deputy Directors of National Intelligence

(1) There may be not more than four Deputy Directors of National Intelligence who shall be appointed by the Director of National Intelligence.

(2) Each Deputy Director of National Intelligence appointed under this subsection shall have such duties, responsibilities, and authorities as the Director of National Intelligence may assign or are specified by law.

(c) Military status of Director of National Intelligence and Principal Deputy Director of National Intelligence

(1) Not more than one of the individuals serving in the positions specified in paragraph (2) may be a commissioned officer of the Armed Forces in active status.

(2) The positions referred to in this paragraph are the following:

(A) The Director of National Intelligence.

(B) The Principal Deputy Director of National Intelligence.

(3) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (2)—

(A) be a commissioned officer of the Armed Forces, in active status; or

(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

(4) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (2)—

(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

(5) Except as provided in subparagraph (A) or (B) of paragraph (4), the appointment of an officer of the Armed Forces to a position specified in paragraph (2) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

(6) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (2), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of National Intelligence.

(July 26, 1947, ch. 343, title I, § 103A, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3656.)

CODIFICATION

Section was formerly classified to section 403–3a of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3027. National Intelligence Council

(a) National Intelligence Council

There is a National Intelligence Council.

(b) Composition

(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of National Intelligence.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) Duties and responsibilities

(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the Director of National Intelligence in carrying out the responsibilities of the Director under section 3024 of this title.

(2) The Director of National Intelligence shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence.

(d) Service as senior intelligence advisers

Within their respective areas of expertise and under the direction of the Director of National Intelligence, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

(e) Authority to contract

Subject to the direction and control of the Director of National Intelligence, the National Intelligence Council may carry out its responsibilities under this section by contract, including

contracts for substantive experts necessary to assist the Council with particular assessments under this section.

(f) Staff

The Director of National Intelligence shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) Availability of Council and staff

(1) The Director of National Intelligence shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) Support

The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the Director of National Intelligence.

(i) National Intelligence Council product

For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

(July 26, 1947, ch. 343, title I, § 103B, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3657.)

CODIFICATION

Section was formerly classified to section 403–3b of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3028. General Counsel

(a) General Counsel

There is a General Counsel of the Office of the Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Prohibition on dual service as General Counsel of another agency

The individual serving in the position of General Counsel may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) Scope of position

The General Counsel is the chief legal officer of the Office of the Director of National Intelligence.

(d) Functions

The General Counsel shall perform such functions as the Director of National Intelligence may prescribe.

(July 26, 1947, ch. 343, title I, § 103C, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3658.)

CODIFICATION

Section was formerly classified to section 403–3c of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3029. Civil Liberties Protection Officer

(a) Civil Liberties Protection Officer

(1) Within the Office of the Director of National Intelligence, there is a Civil Liberties Protection Officer who shall be appointed by the Director of National Intelligence.

(2) The Civil Liberties Protection Officer shall report directly to the Director of National Intelligence.

(b) Duties

The Civil Liberties Protection Officer shall—

(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the Director of National Intelligence and the elements of the intelligence community within the National Intelligence Program;

(2) oversee compliance by the Office and the Director of National Intelligence with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy;

(3) review and assess complaints and other information indicating possible abuses of civil liberties and privacy in the administration of the programs and operations of the Office and the Director of National Intelligence and, as appropriate, investigate any such complaint or information;

(4) ensure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(5) ensure that personal information contained in a system of records subject to section 552a of title 5 (popularly referred to as the ''Privacy Act''), is handled in full compliance with fair information practices as set out in that section;

(6) conduct privacy impact assessments when appropriate or as required by law; and

(7) perform such other duties as may be prescribed by the Director of National Intelligence or specified by law.

(c) Use of agency Inspectors General

When appropriate, the Civil Liberties Protection Officer may refer complaints to the Office of Inspector General having responsibility for the affected element of the department or agency of the intelligence community to conduct an investigation under paragraph (3) of subsection (b) of this section.

(July 26, 1947, ch. 343, title I, § 103D, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3658.)

REFERENCES IN TEXT

The Privacy Act, referred to in subsec. (b)(5), probably means the Privacy Act of 1974, Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 552a of Title 5 and Tables.

CODIFICATION

Section was formerly classified to section 403–3d of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3030. Director of Science and Technology

(a) Director of Science and Technology

There is a Director of Science and Technology within the Office of the Director of National Intelligence who shall be appointed by the Director of National Intelligence.

(b) Requirement relating to appointment

An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology.

(c) Duties

The Director of Science and Technology shall—

(1) act as the chief representative of the Director of National Intelligence for science and technology;

(2) chair the Director of National Intelligence Science and Technology Committee under subsection (d) of this section;

(3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;

(4) assist the Director on the science and technology elements of the budget of the Office of the Director of National Intelligence; and

(5) perform other such duties as may be prescribed by the Director of National Intelligence or specified by law.

(d) Director of National Intelligence Science and Technology Committee

(1) There is within the Office of the Director of Science and Technology a Director of National Intelligence Science and Technology Committee.

(2) The Committee shall be composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Director of Science and Technology shall prescribe.

(July 26, 1947, ch. 343, title I, § 103E, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3659.)

CODIFICATION

Section was formerly classified to section 403–3e of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3031. National Counterintelligence Executive

(a) National Counterintelligence Executive

The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 [50 U.S.C. 3382] is a component of the Office of the Director of National Intelligence.

(b) Duties

The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002 and such other duties as may be prescribed by the Director of National Intelligence or specified by law.

(July 26, 1947, ch. 343, title I, § 103F, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660.)

REFERENCES IN TEXT

The Counterintelligence Enhancement Act of 2002, referred to in subsec. (b), is title IX of Pub. L. 107–306, Nov. 27, 2002, 116 Stat. 2432. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 403–3f of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see sec-

tion 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3032. Chief Information Officer

(a) Chief Information Officer

To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this chapter and other applicable provisions of law, there shall be within the Office of the Director of National Intelligence a Chief Information Officer of the Intelligence Community who shall be appointed by the President.

(b) Duties and responsibilities

Subject to the direction of the Director of National Intelligence, the Chief Information Officer of the Intelligence Community shall—

(1) manage activities relating to the information technology infrastructure and enterprise architecture requirements of the intelligence community;

(2) have procurement approval authority over all information technology items related to the enterprise architectures of all intelligence community components;

(3) direct and manage all information technology-related procurement for the intelligence community; and

(4) ensure that all expenditures for information technology and research and development activities are consistent with the intelligence community enterprise architecture and the strategy of the Director for such architecture.

(c) Prohibition on simultaneous service as other chief information officer

An individual serving in the position of Chief Information Officer of the Intelligence Community may not, while so serving, serve as the chief information officer of any other department or agency, or component thereof, of the United States Government.

(July 26, 1947, ch. 343, title I, § 103G, as added Pub. L. 108–487, title III, § 303(a)(1), Dec. 23, 2004, 118 Stat. 3944; amended Pub. L. 111–259, title IV, § 404, Oct. 7, 2010, 124 Stat. 2709.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 403–3g of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–259, § 404(1), inserted ''of the Intelligence Community'' after ''Chief Information Officer'' and substituted ''President.'' for ''President, by and with the advice and consent of the Senate.''

Subsecs. (b) to (d). Pub. L. 111–259, § 404(2)–(4), redesignated subsecs. (c) and (d) as (b) and (c), respectively, inserted ''of the Intelligence Community'' after ''Chief Information Officer'' in two places, and struck out former subsec. (b). Text of former subsec. (b) read as follows: ''The Chief Information Officer shall serve as the chief information officer of the intelligence community.''

EFFECTIVE DATE

Pub. L. 108–487, title III, § 303(b), Dec. 23, 2004, 118 Stat. 3944, provided that: ''The amendments made by this section [enacting this section] shall take effect on the effective date of the National Security Intelligence Reform Act of 2004 [see section 1097 of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transfer, Termination, and Transition Provisions note under section 3001 of this title], as provided in section 801 of this Act [set out in an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse].''

§ 3033. Inspector General of the Intelligence Community

(a) Office of Inspector General of the Intelligence Community

There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

(b) Purpose

The purpose of the Office of the Inspector General of the Intelligence Community is—

(1) to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independent investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence;

(2) to provide leadership and coordination and recommend policies for activities designed—

(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

(B) to prevent and detect fraud and abuse in such programs and activities;

(3) to provide a means for keeping the Director of National Intelligence fully and currently informed about—

(A) problems and deficiencies relating to the administration of programs and activities within the responsibility and authority of the Director of National Intelligence; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, to ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence; and

(B) the necessity for, and the progress of, corrective actions.

(c) Inspector General of the Intelligence Community

(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) on the basis of integrity, compliance with security standards of the intelligence

community, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.

(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

(4) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(d) Assistant Inspectors General

Subject to the policies of the Director of National Intelligence, the Inspector General of the Intelligence Community shall—

(1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and

(3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

(e) Duties and responsibilities

It shall be the duty and responsibility of the Inspector General of the Intelligence Community—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;

(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing.

(f) Limitations on activities

(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(2) Not later than seven days after the date on which the Director exercises the authority under paragraph (1), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority.

(3) The Director shall advise the Inspector General at the time a statement under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement.

(4) The Inspector General may submit to the congressional intelligence committees any comments on the statement of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

(g) Authorities

(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

(2)(A) The Inspector General shall, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

(B) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

(C) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

(D) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (C).

(E) The Director, or on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of a contractor, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of au-

thority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the intelligence community—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken, and this provision shall qualify as a withholding statute pursuant to subsection (b)(3) of section 552 of title 5 (commonly known as the ''Freedom of Information Act''); and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have the authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for, or on behalf of, any component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

(6) The Inspector General may obtain services as authorized by section 3109 of title 5 at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5.

(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(h) Coordination among Inspectors General

(1)(A) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and an inspector general with oversight responsibility for an element of the intelligence community, the Inspector General of the Intelligence Community and such other inspector general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the inspectors general.

(B) In attempting to resolve a question under subparagraph (A), the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within a department or agency of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected department or agency for resolution.

(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community.

(B) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

(3) The inspector general conducting an investigation, inspection, audit, or review covered by paragraph (1) shall submit the results of such investigation, inspection, audit, or review to any other inspector general, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, audit, or review who did not conduct such investigation, inspection, audit, or review.

(i) Counsel to the Inspector General

(1) The Inspector General of the Intelligence Community shall—

(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

(B) obtain the services of a counsel appointed by and directly reporting to another

inspector general or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(2) The counsel appointed or obtained under paragraph (1) shall perform such functions as the Inspector General may prescribe.

(j) Staff and other support

(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the Intelligence Community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

(3) Consistent with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has final approval of—

(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

(B) all other personnel decisions concerning personnel permanently assigned to the Office of the Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

(4)(A) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, such information or assistance.

(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

(k) Reports

(1)(A) The Inspector General of the Intelligence Community shall, not later than October 31 and April 30 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending September 30 and March 31, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

(B) Each report under this paragraph shall include, at a minimum, the following:

(i) A list of the title or subject of each investigation, inspection, audit, or review conducted during the period covered by such report.

(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and activities of the intelligence community within the responsibility and authority of the Director of National Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

(iv) A statement of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

(v) A certification of whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

(vi) A description of the exercise of the subpoena authority under subsection (g)(5) by the Inspector General during the period covered by such report.

(vii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Di-

rector shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

(3)(A) In the event that—

(i) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

(ii) an investigation, inspection, audit, or review carried out by the Inspector General focuses on any current or former intelligence community official who—

(I) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

(II) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

(III) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 3041 of this title;

(iii) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in clause (ii);

(iv) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in clause (ii); or

(v) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, audit, or review,

the Inspector General shall immediately notify, and submit a report to, the congressional intelligence committees on such matter.

(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

(4) The Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or ranking minority member of either committee.

(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

(B) Not later than the end of the 14-calendar-day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

(ii) An employee may contact the congressional intelligence committees directly as described in clause (i) only if the employee—

(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional intelligence committees who receives

a complaint or information under this subparagraph does so in that member or employee's official capacity as a member or employee of such committee.

(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(G) In this paragraph, the term ''urgent concern'' means any of the following:

(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, constituting reprisal or threat of reprisal prohibited under subsection (g)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

(H) Nothing in this section shall be construed to limit the protections afforded to an employee under section 3517(d) of this title or section 8H of the Inspector General Act of 1978 (5 U.S.C. App.).

(I) An individual who has submitted a complaint or information to the Inspector General under this section may notify any member of either of the congressional intelligence committees, or a staff member of either of such committees, of the fact that such individual has made a submission to the Inspector General, and of the date on which such submission was made.

(6) In accordance with section 535 of title 28, the Inspector General shall expeditiously report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves[1] a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

(*l*) Construction of duties regarding elements of Intelligence Community

Except as resolved pursuant to subsection (h), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other inspector general having duties and responsibilities relating to such element.

(m) Separate budget account

The Director of National Intelligence shall, in accordance with procedures issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of the Inspector General of the Intelligence Community.

(n) Budget

(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

(A) the aggregate amount requested for the operations of the Inspector General;

(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification for such amount.

(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

(B) the amount requested for Inspector General training;

(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency; and

(D) the comments of the Inspector General, if any, with respect to such proposed budget.

(3) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2)(A);

(C) the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B);

(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (2)(C); and

(E) the comments of the Inspector General under paragraph (2)(D), if any, on the amounts requested pursuant to paragraph (2), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.

[1] So in original. Probably should be ''involve''.

(*o*) Information on website

(1) The Director of National Intelligence shall establish and maintain on the homepage of the publicly accessible website of the Office of the Director of National Intelligence information relating to the Office of the Inspector General of the Intelligence Community including methods to contact the Inspector General.

(2) The information referred to in paragraph (1) shall be obvious and facilitate accessibility to the information related to the Office of the Inspector General of the Intelligence Community.

(July 26, 1947, ch. 343, title I, § 103H, as added Pub. L. 111–259, title IV, § 405(a)(1), Oct. 7, 2010, 124 Stat. 2709; amended Pub. L. 112–87, title IV, § 403, Jan. 3, 2012, 125 Stat. 1888; Pub. L. 112–277, title III, § 309(a), Jan. 14, 2013, 126 Stat. 2474; Pub. L. 113–126, title III, § 304, title VI, § 603(c), July 7, 2014, 128 Stat. 1395, 1421.)

REFERENCES IN TEXT

Section 8H of the Inspector General Act of 1978, referred to in subsec. (k)(5)(H), is section 8H of Pub. L. 95–452, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 403–3h of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (g)(3)(A). Pub. L. 113–126, § 304, substituted ''undertaken, and this provision shall qualify as a withholding statute pursuant to subsection (b)(3) of section 552 of title 5 (commonly known as the 'Freedom of Information Act');'' for ''undertaken;''.

Subsec. (k)(5)(I). Pub. L. 113–126, § 603(c), added subpar. (I).

2013—Subsec. (k)(1)(A). Pub. L. 112–277 substituted ''October 31 and April 30'' for ''January 31 and July 31'' and ''September 30 and March 31,'' for ''December 31 (of the preceding year) and June 30,''.

2012—Subsec. (*o*). Pub. L. 112–87 added subsec. (*o*).

CONSTRUCTION

Pub. L. 111–259, title IV, § 405(c), Oct. 7, 2010, 124 Stat. 2719, provided that: ''Nothing in the amendment made by subsection (a)(1) [enacting this section] shall be construed to alter the duties and responsibilities of the General Counsel of the Office of the Director of National Intelligence.''

§ 3034. Chief Financial Officer of the Intelligence Community

(a) Chief Financial Officer of the Intelligence Community

To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this chapter and other applicable provisions of law, there is within the Office of the Director of National Intelligence a Chief Financial Officer of the Intelligence Community who shall be appointed by the Director.

(b) Duties and responsibilities

Subject to the direction of the Director of National Intelligence, the Chief Financial Officer of the Intelligence Community shall—

(1) serve as the principal advisor to the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources;

(2) participate in overseeing a comprehensive and integrated strategic process for resource management within the intelligence community;

(3) ensure that the strategic plan of the Director of National Intelligence—

(A) is based on budgetary constraints as specified in the Future Year Intelligence Plans and Long-term Budget Projections required under section 3103 of this title; and

(B) contains specific goals and objectives to support a performance-based budget;

(4) prior to the obligation or expenditure of funds for the acquisition of any major system pursuant to a Milestone A or Milestone B decision, receive verification from appropriate authorities that the national requirements for meeting the strategic plan of the Director have been established, and that such requirements are prioritized based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections for such major system required under section 3103 of this title;

(5) ensure that the collection architectures of the Director are based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections required under section 3103 of this title;

(6) coordinate or approve representations made to Congress by the intelligence community regarding National Intelligence Program budgetary resources;

(7) participate in key mission requirements, acquisitions, or architectural boards formed within or by the Office of the Director of National Intelligence; and

(8) perform such other duties as may be prescribed by the Director of National Intelligence.

(c) Other law

The Chief Financial Officer of the Intelligence Community shall serve as the Chief Financial Officer of the intelligence community and, to the extent applicable, shall have the duties, responsibilities, and authorities specified in chapter 9 of title 31.

(d) Prohibition on simultaneous service as other Chief Financial Officer

An individual serving in the position of Chief Financial Officer of the Intelligence Community may not, while so serving, serve as the chief financial officer of any other department or agency, or component thereof, of the United States Government.

(e) Definitions

In this section:

(1) The term ''major system'' has the meaning given that term in section 3097(e) of this title.

(2) The term ''Milestone A'' has the meaning given that term in section 3103(f)[1] of this title.

(3) The term ''Milestone B'' has the meaning given that term in section 3099(e) of this title.

[1] So in original. Section 3103 of this title does not contain a subsec. (f).

(July 26, 1947, ch. 343, title I, § 103I, as added Pub. L. 111–259, title IV, § 406(a), Oct. 7, 2010, 124 Stat. 2720.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 403–3i of this title prior to editorial reclassification and renumbering as this section.

§ 3034a. Functional Managers for the intelligence community

(a) Functional Managers authorized

The Director of National Intelligence may establish within the intelligence community one or more positions of manager of an intelligence function. Any position so established may be known as the ''Functional Manager'' of the intelligence function concerned.

(b) Personnel

The Director shall designate individuals to serve as manager of intelligence functions established under subsection (a) from among officers and employees of elements of the intelligence community.

(c) Duties

Each manager of an intelligence function established under subsection (a) shall have the duties as follows:

(1) To act as principal advisor to the Director on the intelligence function.

(2) To carry out such other responsibilities with respect to the intelligence function as the Director may specify for purposes of this section.

(July 26, 1947, ch. 343, title I, § 103J, as added Pub. L. 113–126, title III, § 305(a), July 7, 2014, 128 Stat. 1395.)

§ 3035. Central Intelligence Agency

(a) Central Intelligence Agency

There is a Central Intelligence Agency.

(b) Function

The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 3036(c) of this title.

(July 26, 1947, ch. 343, title I, § 104, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660.)

CODIFICATION

Section was formerly classified to section 403–4 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 104 of act July 26, 1947, ch. 343, title I, as added Pub. L. 102–496, title VII, § 705(a)(3), Oct. 24, 1992, 106 Stat. 3192; amended Pub. L. 104–106, div. A, title XV, § 1502(f)(5), Feb. 10, 1996, 110 Stat. 510; Pub. L. 104–293, title VIII, § 807(b), Oct. 11, 1996, 110 Stat. 3480; Pub. L. 106–65, div. A, title X, § 1067(16), Oct. 5, 1999, 113 Stat. 775; Pub. L. 106–567, title I, § 105, Dec. 27, 2000, 114 Stat. 2834; Pub. L. 107–306, title III, §§ 321, 353(b)(1)(A), (4), Nov. 27, 2002, 116 Stat. 2391, 2402, related to authorities of Director of Central Intelligence, prior to repeal by Pub. L. 108–458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See sections 3024 and 3036 of this title.

Another prior section 104 of act July 26, 1947, was renumbered section 108 and is classified to section 3043 of this title.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

COMMUNICATION OF RESTRICTED DATA

Authorization for the communication of Restricted Data by the Central Intelligence Agency, see Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, set out as a note under section 2162 of Title 42, The Public Health and Welfare.

§ 3036. Director of the Central Intelligence Agency

(a) Director of Central Intelligence Agency

There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Supervision

The Director of the Central Intelligence Agency shall report to the Director of National Intelligence regarding the activities of the Central Intelligence Agency.

(c) Duties

The Director of the Central Intelligence Agency shall—

(1) serve as the head of the Central Intelligence Agency; and

(2) carry out the responsibilities specified in subsection (d) of this section.

(d) Responsibilities

The Director of the Central Intelligence Agency shall—

(1) collect intelligence through human sources and by other appropriate means, except that the Director of the Central Intelligence Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

(2) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

(3) provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the

most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection; and

(4) perform such other functions and duties related to intelligence affecting the national security as the President or the Director of National Intelligence may direct.

(e) Termination of employment of CIA employees

(1) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(f) Coordination with foreign governments

Under the direction of the Director of National Intelligence and in a manner consistent with section 3927 of title 22, the Director of the Central Intelligence Agency shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(g) Foreign language proficiency for certain senior level positions in Central Intelligence Agency

(1) Except as provided pursuant to paragraph (2), an individual in the Directorate of Intelligence career service or the National Clandestine Service career service may not be appointed or promoted to a position in the Senior Intelligence Service in the Directorate of Intelligence or the National Clandestine Service of the Central Intelligence Agency unless the Director of the Central Intelligence Agency determines that the individual has been certified as having a professional speaking and reading proficiency in a foreign language, such proficiency being at least level 3 on the Interagency Language Roundtable Language Skills Level or commensurate proficiency level using such other indicator of proficiency as the Director of the Central Intelligence Agency considers appropriate.

(2) The Director of the Central Intelligence Agency may, in the discretion of the Director, waive the application of paragraph (1) to any position, category of positions, or occupation otherwise covered by that paragraph if the Director determines that foreign language proficiency is not necessary for the successful performance of the duties and responsibilities of such position, category of positions, or occupation.

(July 26, 1947, ch. 343, title I, § 104A, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660; amended Pub. L. 108–487, title VI, § 611(a), Dec. 23, 2004, 118 Stat. 3954; Pub. L. 111–259, title VIII, § 804(4), Oct. 7, 2010, 124 Stat. 2747; Pub. L. 112–87, title IV, § 412(a), Jan. 3, 2012, 125 Stat. 1890.)

CODIFICATION

Section was formerly classified to section 403–4a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2012—Subsec. (g)(1). Pub. L. 112–87, § 412(a)(1), inserted ''in the Directorate of Intelligence career service or the National Clandestine Service career service'' after ''an individual'' and ''or promoted'' after ''appointed'', substituted ''individual has been certified as having a professional speaking and reading proficiency in a foreign language, such proficiency being at least level 3 on the Interagency Language Roundtable Language Skills Level or commensurate proficiency level using such other indicator of proficiency as the Director of the Central Intelligence Agency considers appropriate.'' for ''individual—'', and struck out subpars. (A) and (B) which related to required level of proficiency in a foreign language and ability to effectively communicate and exercise influence in that language, respectively.

Subsec. (g)(2). Pub. L. 112–87, § 412(a)(2), substituted ''position, category of positions, or occupation'' for '' position or category of positions'' in two places.

2010—Subsec. (g)(1). Pub. L. 111–259 substituted ''National Clandestine Service'' for ''Directorate of Operations'' in introductory provisions.

2004—Subsec. (g). Pub. L. 108–487 added subsec. (g).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–487, title VI, § 611(b), Dec. 23, 2004, 118 Stat. 3955, as amended by Pub. L. 112–87, title IV, § 412(b), Jan. 3, 2012, 125 Stat. 1890, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to appointments or promotions made on or after the date of the enactment of this Act [Dec. 23, 2004].''

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

CREATING AN OFFICIAL RECORD OF THE OSAMA BIN LADEN OPERATION

Pub. L. 112–87, title IV, § 414, Jan. 3, 2012, 125 Stat. 1891, provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) On May 1, 2011, United States personnel killed terrorist leader Osama bin Laden during the course of a targeted strike against his secret compound in Abbottabad, Pakistan.

''(2) Osama bin Laden was the leader of the al Qaeda terrorist organization, the most significant terrorism threat to the United States and the international community.

''(3) Osama bin Laden was the architect of terrorist attacks which killed nearly 3,000 civilians on September 11, 2001, the most deadly terrorist attack against our Nation, in which al Qaeda terrorists hijacked four airplanes and crashed them into the World Trade Center in New York City, the Pentagon in Washington, D.C., and, due to heroic efforts by civilian passengers to disrupt the terrorists, near Shanksville, Pennsylvania.

''(4) Osama bin Laden planned or supported numerous other deadly terrorist attacks against the United

States and its allies, including the 1998 bombings of United States embassies in Kenya and Tanzania and the 2000 attack on the U.S.S. Cole in Yemen, and against innocent civilians in countries around the world, including the 2004 attack on commuter trains in Madrid, Spain and the 2005 bombings of the mass transit system in London, England.

''(5) Following the September 11, 2001, terrorist attacks, the United States, under President George W. Bush, led an international coalition into Afghanistan to dismantle al Qaeda, deny them a safe haven in Afghanistan and ungoverned areas along the Pakistani border, and bring Osama bin Laden to justice.

''(6) President Barack Obama in 2009 committed additional forces and resources to efforts in Afghanistan and Pakistan as 'the central front in our enduring struggle against terrorism and extremism'.

''(7) The valiant members of the United States Armed Forces have courageously and vigorously pursued al Qaeda and its affiliates in Afghanistan and around the world.

''(8) The anonymous, unsung heroes of the intelligence community have pursued al Qaeda and affiliates in Afghanistan, Pakistan, and around the world with tremendous dedication, sacrifice, and professionalism.

''(9) The close collaboration between the Armed Forces and the intelligence community prompted the Director of National Intelligence, General James Clapper, to state, 'Never have I seen a more remarkable example of focused integration, seamless collaboration, and sheer professional magnificence as was demonstrated by the Intelligence Community in the ultimate demise of Osama bin Laden.'.

''(10) While the death of Osama bin Laden represents a significant blow to the al Qaeda organization and its affiliates and to terrorist organizations around the world, terrorism remains a critical threat to United States national security.

''(11) President Obama said, 'For over two decades, bin Laden has been al Qaeda's leader and symbol, and has continued to plot attacks against our country and our friends and allies. The death of bin Laden marks the most significant achievement to date in our Nation's effort to defeat al Qaeda.'.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) the raid that killed Osama bin Laden demonstrated the best of the intelligence community's capabilities and teamwork;

''(2) for years to come, Americans will look back at this event as a defining point in the history of the United States;

''(3) it is vitally important that the United States memorialize all the events that led to the raid so that future generations will have an official record of the events that transpired before, during, and as a result of the operation; and

''(4) preserving this history now will allow the United States to have an accurate account of the events while those that participated in the events are still serving in the Government.

''(c) REPORT ON THE OPERATION THAT KILLED OSAMA BIN LADEN.—Not later than 90 days after the completion of the report being prepared by the Center for the Study of Intelligence that documents the history of and lessons learned from the raid that resulted in the death of Osama bin Laden, the Director of the Central Intelligence Agency shall submit such report to the congressional intelligence committees.

''(d) PRESERVATION OF RECORDS.—The Director of the Central Intelligence Agency shall preserve any records, including intelligence information and assessments, used to generate the report described in subsection (c).''

[For definitions of ''intelligence community'' and ''congressional intelligence committees'' as used in section 414 of Pub. L. 112–87, set out above, see section 2 of Pub. L. 112–87, set out as a note under section 3003 of this title.]

ANNUAL REPORT ON FOREIGN COMPANIES INVOLVED IN THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT RAISE FUNDS IN THE UNITED STATES CAPITAL MARKETS

Pub. L. 107–306, title VIII, § 827, Nov. 27, 2002, 116 Stat. 2430, required Director of Central Intelligence to submit annual report on foreign companies involved in the proliferation of weapons of mass destruction that raised or attempted to raise funds in the United States capital markets, prior to repeal by Pub. L. 108–177, title III, § 361(e), Dec. 13, 2003, 117 Stat. 2625.

EXECUTIVE ORDER NO. 13355

Ex. Ord. No. 13355, Aug. 27, 2004, 69 F.R. 53593, which related to strengthened management of the Intelligence Community, was revoked by Ex. Ord. No. 12333, § 3.6, Dec. 4, 1981, 46 F.R. 59954, as amended by Ex. Ord. No. 13470, § 4(j), July 30, 2008, 73 F.R. 45341, set out as a note under section 3001 of this title.

§ 3037. Deputy Director of the Central Intelligence Agency

(a) Deputy Director of the Central Intelligence Agency

There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President.

(b) Duties

The Deputy Director of the Central Intelligence Agency shall—

(1) assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central Intelligence Agency; and

(2) during the absence or disability of the Director of the Central Intelligence Agency, or during a vacancy in the position of Director of the Central Intelligence Agency, act for and exercise the powers of the Director of the Central Intelligence Agency.

(July 26, 1947, ch. 343, title I, § 104B, as added Pub. L. 111–259, title IV, § 423(a), Oct. 7, 2010, 124 Stat. 2727.)

CODIFICATION

Section was formerly classified to section 403–4c of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

Pub. L. 111–259, title IV, § 423(c), Oct. 7, 2010, 124 Stat. 2728, provided that: ''The amendments made by this section [enacting this section and amending section 5314 of Title 5, Government Organization and Employees] shall apply on the earlier of—

''(1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency pursuant to section 104B of the National Security Act of 1947 [50 U.S.C. 3037], as added by subsection (a), except that the individual administratively performing the duties of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act [Oct. 7, 2010] may continue to perform such duties until the individual appointed to the position of Deputy Director of the Central Intelligence Agency assumes the duties of such position; or

''(2) the date of the cessation of the performance of the duties of the Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.''

§ 3038. Responsibilities of Secretary of Defense pertaining to National Intelligence Program

(a) In general

Consistent with sections 3023 and 3024 of this title, the Secretary of Defense, in consultation with the Director of National Intelligence, shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman[1] of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director by elements of the Department of Defense within the National Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Intelligence Program;

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) Responsibility for performance of specific functions

Consistent with sections 3023 and 3024 of this title, the Secretary of Defense shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information;

(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence and counterintelligence activities, including defense attaches; and

(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

(A) the requirements of the Director of National Intelligence;

(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

(C) the requirements of the unified and specified combatant commands and of joint operations; and

(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

(c) Expenditure of funds by the Defense Intelligence Agency

(1) Subject to paragraphs (2) and (3), the Director of the Defense Intelligence Agency may expend amounts made available to the Director under the National Intelligence Program for human intelligence and counterintelligence activities for objects of a confidential, extraordinary, or emergency nature, without regard to the provisions of law or regulation relating to the expenditure of Government funds.

(2) The Director of the Defense Intelligence Agency may not expend more than five percent of the amounts made available to the Director under the National Intelligence Program for human intelligence and counterintelligence activities for a fiscal year for objects of a confidential, extraordinary, or emergency nature in accordance with paragraph (1) during such fiscal year unless—

[1] So in original. Probably should be capitalized.

(A) the Director notifies the congressional intelligence committees of the intent to expend the amounts; and

(B) 30 days have elapsed from the date on which the Director notifies the congressional intelligence committees in accordance with subparagraph (A).

(3) For each expenditure referred to in paragraph (1), the Director shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

(4) Not later than December 31 of each year, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees a report on any expenditures made during the preceding fiscal year in accordance with paragraph (1).

(d) Use of elements of Department of Defense

The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

(July 26, 1947, ch. 343, title I, § 105, as added Pub. L. 102–496, title VII, § 706(a), Oct. 24, 1992, 106 Stat. 3194; amended Pub. L. 103–359, title V, § 501(a)(2), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104–201, div. A, title XI, § 1114(a), Sept. 23, 1996, 110 Stat. 2684; Pub. L. 104–293, title VIII, § 808, Oct. 11, 1996, 110 Stat. 3481; Pub. L. 107–306, title VIII, § 811(b)(1)(A), Nov. 27, 2002, 116 Stat. 2421; Pub. L. 108–136, div. A, title IX, § 921(e)(2), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108–177, title III, § 361(a), Dec. 13, 2003, 117 Stat. 2625; Pub. L. 108–458, title I, §§ 1071(a)(1)(E), (F), (2)(A), 1072(a)(2), (3), 1074(b)(1)(B), Dec. 17, 2004, 118 Stat. 3689, 3690, 3692, 3694; Pub. L. 112–18, title IV, § 411, June 8, 2011, 125 Stat. 228.)

CODIFICATION

Section was formerly classified to section 403–5 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2011—Subsec. (b)(5). Pub. L. 112–18, § 411(1), inserted ''and counterintelligence'' after ''human intelligence''.

Subsecs. (c), (d). Pub. L. 112–18, § 411(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

2004—Pub. L. 108–458, § 1074(b)(1)(B)(ii), struck out ''Foreign'' before ''Intelligence'' in section catchline.

Subsec. (a). Pub. L. 108–458, § 1072(a)(2), substituted ''Consistent with sections 403 and 403–1 of this title, the Secretary'' for ''The Secretary'' in introductory provisions.

Pub. L. 108–458, § 1071(a)(1)(E), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (a)(2). Pub. L. 108–458, § 1074(b)(1)(B)(i), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

Pub. L. 108–458, § 1071(a)(2)(A), struck out ''of Central Intelligence'' after ''Director''.

Subsec. (a)(3). Pub. L. 108–458, § 1074(b)(1)(B)(i), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

Subsec. (b). Pub. L. 108–458, § 1072(a)(3), substituted ''403 and 403–1'' for ''403–3 and 403–4'' in introductory provisions.

Subsec. (b)(6)(A). Pub. L. 108–458, § 1071(a)(1)(F), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Subsec. (b)(2). Pub. L. 108–136, § 921(e)(2), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (d). Pub. L. 108–177 struck out subsec. (d) which related to annual evaluations of performance and responsiveness of certain elements of the intelligence community.

Subsec. (d)(3). Pub. L. 108–136, § 921(e)(2), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

2002—Subsec. (d). Pub. L. 107–306 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 404d(c) of this title) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.''

1996—Subsec. (a). Pub. L. 104–293, § 808(1), inserted '', in consultation with the Director of Central Intelligence,'' after ''Secretary of Defense'' in introductory provisions.

Subsec. (b)(2). Pub. L. 104–201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''through the Central Imagery Office (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;''.

Subsec. (d). Pub. L. 104–293, § 808(2), added subsec. (d).

1994—Subsec. (b)(2). Pub. L. 103–359 substituted ''the Central Imagery Office'' for ''a central imagery authority''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE

Pub. L. 109–163, div. A, title IX, § 931, Jan. 6, 2006, 119 Stat. 3411, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) Open-source intelligence (OSINT) is intelligence that is produced from publicly available information and is collected, exploited, and disseminated in a timely manner to an appropriate audience

for the purpose of addressing a specific intelligence requirement.

''(2) With the Information Revolution, the amount, significance, and accessibility of open-source information has expanded significantly, but the intelligence community has not expanded its exploitation efforts and systems to produce open-source intelligence.

''(3) The production of open-source intelligence is a valuable intelligence discipline that must be integrated into intelligence tasking, collection, processing, exploitation, and dissemination to ensure that United States policymakers are fully and completely informed.

''(4) The dissemination and use of validated open-source intelligence inherently enables information sharing since open-source intelligence is produced without the use of sensitive sources and methods. Open-source intelligence products can be shared with the American public and foreign allies because of the unclassified nature of open-source intelligence.

''(5) The National Commission on Terrorist Attacks Upon the United States (popularly referred to as the '9/11 Commission'), in its final report released on July 22, 2004, identified shortfalls in the ability of the United States to use all-source intelligence, a large component of which is open-source intelligence.

''(6) In the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) [see Tables for classification], Congress calls for coordination of the collection, analysis, production, and dissemination of open-source intelligence.

''(7) The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, in its report to the President released on March 31, 2005, found that 'the need for exploiting open-source material is greater now than ever before,' but that 'the Intelligence Community's open source programs have not expanded commensurate with either the increase in available information or with the growing importance of open source data to today's problems'.

''(b) DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.—

''(1) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy for the purpose of integrating open-source intelligence into the Defense intelligence process. The strategy shall be known as the 'Defense Strategy for Open-Source Intelligence'. The strategy shall be incorporated within the larger Defense intelligence strategy.

''(2) SUBMISSION.—The Secretary shall submit to Congress a report setting forth the strategy developed under paragraph (1). The report shall be submitted not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006].

''(c) MATTERS TO BE INCLUDED.—The strategy under subsection (b) shall include the following:

''(1) A plan for providing funds over the period of the future-years defense program for the development of a robust open-source intelligence capability for the Department of Defense, with particular emphasis on exploitation and dissemination.

''(2) A description of how management of the collection of open-source intelligence is currently conducted within the Department of Defense and how that management can be improved.

''(3) A description of the tools, systems, centers, organizational entities, and procedures to be used within the Department of Defense to perform open-source intelligence tasking, collection, processing, exploitation, and dissemination.

''(4) A description of proven tradecraft for effective exploitation of open-source intelligence, to include consideration of operational security.

''(5) A detailed description on how open-source intelligence will be fused with all other intelligence sources across the Department of Defense.

''(6) A description of—

''(A) a training plan for Department of Defense intelligence personnel with respect to open-source intelligence; and

''(B) open-source intelligence guidance for Department of Defense intelligence personnel.

''(7) A plan to incorporate the function of oversight of open-source intelligence—

''(A) into the Office of the Undersecretary of Defense for Intelligence; and

''(B) into service intelligence organizations.

''(8) A plan to incorporate and identify an open-source intelligence specialty into personnel systems of the Department of Defense, including military personnel systems.

''(9) A plan for the use of intelligence personnel of the reserve components to augment and support the open-source intelligence mission.

''(10) A plan for the use of the Open-Source Information System for the purpose of exploitation and dissemination of open-source intelligence.''

ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE IN EXPERIMENTAL PERSONNEL PROGRAM FOR CERTAIN SCIENTIFIC AND TECHNICAL PERSONNEL

Pub. L. 106–567, title V, § 501, Dec. 27, 2000, 114 Stat. 2850, as amended by Pub. L. 108–136, div. A, title IX, § 921(g), Nov. 24, 2003, 117 Stat. 1570, provided that: ''If the Director of Central Intelligence requests that the Secretary of Defense exercise any authority available to the Secretary under section 1101(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 5 U.S.C. 3104 note) to carry out a program of special personnel management authority at the National Geospatial-Intelligence Agency and the National Security Agency in order to facilitate recruitment of eminent experts in science and engineering at such agencies, the Secretary shall respond to such request not later than 30 days after the date of such request.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of this title.]

§ 3039. Assistance to United States law enforcement agencies

(a) Authority to provide assistance

Subject to subsection (b) of this section, elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

(b) Limitation on assistance by elements of Department of Defense

(1) With respect to elements within the Department of Defense, the authority in subsection (a) of this section applies only to the following:

(A) The National Security Agency.

(B) The National Reconnaissance Office.

(C) The National Geospatial-Intelligence Agency.

(D) The Defense Intelligence Agency.

(2) Assistance provided under this section by elements of the Department of Defense may not

include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

(c) Definitions

For purposes of subsection (a) of this section:

(1) The term ''United States law enforcement agency'' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

(2) The term ''United States person'' means the following:

(A) A United States citizen.

(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

(July 26, 1947, ch. 343, title I, § 105A, as added Pub. L. 104–293, title VIII, § 814(a), Oct. 11, 1996, 110 Stat. 3483; amended Pub. L. 108–136, div. A, title IX, § 921(e)(3), Nov. 24, 2003, 117 Stat. 1569.)

CODIFICATION

Section was formerly classified to section 403–5a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2003—Subsec. (b)(1)(C). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

§ 3040. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources

(a) Disclosure of foreign intelligence

(1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of National Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

(2) The Attorney General by regulation and in consultation with the Director may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

(b) Procedures for notice of criminal investigations

Not later than 180 days after October 26, 2001, the Attorney General, in consultation with the Director of National Intelligence, shall develop guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

(c) Procedures

The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) of this section and the provision of notice with respect to criminal investigations under subsection (b) of this section.

(July 26, 1947, ch. 343, title I, § 105B, as added Pub. L. 107–56, title IX, § 905(a)(2), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 108–458, title I, § 1071(a)(1)(G), (H), (2)(B), (C), Dec. 17, 2004, 118 Stat. 3689, 3690.)

CODIFICATION

Section was formerly classified to section 403–5b of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 105B of act July 26, 1947, ch. 343, title I, as added Pub. L. 106–120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616, which related to protection of operational files of the National Imagery and Mapping Agency, was renumbered by subsequent acts and transferred. See section 3142 of this title.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(G), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (a)(2). Pub. L. 108–458, § 1071(a)(2)(B), struck out ''of Central Intelligence'' after ''Director''.

Subsec. (b). Pub. L. 108–458, § 1071(a)(2)(C), struck out ''of Central Intelligence'' after ''notice to the Director''.

Pub. L. 108–458, § 1071(a)(1)(H), substituted ''with the Director of National Intelligence'' for ''with the Director of Central Intelligence''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L.

108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3041. Appointment of officials responsible for intelligence-related activities

(a) Recommendation of DNI in certain appointments

(1) In the event of a vacancy in a position referred to in paragraph (2), the Director of National Intelligence shall recommend to the President an individual for nomination to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

(A) The Principal Deputy Director of National Intelligence.

(B) The Director of the Central Intelligence Agency.

(b) Concurrence of DNI in appointments to positions in the intelligence community

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may not fill the vacancy or make the recommendation to the President (as the case may be). In the case in which the Director does not concur in such a recommendation, the Director and the head of the department or agency concerned may advise the President directly of the intention to withhold concurrence or to make a recommendation, as the case may be.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(D) The Assistant Secretary of State for Intelligence and Research.

(E) The Director of the Office of Intelligence of the Department of Energy.

(F) The Director of the Office of Counterintelligence of the Department of Energy.

(G) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(H) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.

(I) The Under Secretary of Homeland Security for Intelligence and Analysis.

(c) Consultation with DNI in certain positions

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Defense Intelligence Agency.

(B) The Assistant Commandant of the Coast Guard for Intelligence.

(C) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28.

(July 26, 1947, ch. 343, title I, § 106, as added Pub. L. 102–496, title VII, § 706(a), Oct. 24, 1992, 106 Stat. 3195; amended Pub. L. 103–359, title V, § 501(a)(3), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104–293, title VIII, § 815(a), Oct. 11, 1996, 110 Stat. 3484; Pub. L. 107–108, title III, § 308, Dec. 28, 2001, 115 Stat. 1399; Pub. L. 108–136, div. A, title IX, § 921(e)(5), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108–177, title I, § 105(c), Dec. 13, 2003, 117 Stat. 2603; Pub. L. 108–458, title I, § 1014, Dec. 17, 2004, 118 Stat. 3663; Pub. L. 109–177, title V, § 506(a)(4), Mar. 9, 2006, 120 Stat. 247; Pub. L. 110–53, title V, § 531(b)(5), Aug. 3, 2007, 121 Stat. 334.)

CODIFICATION

Section was formerly classified to section 403–6 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2007—Subsec. (b)(2)(I). Pub. L. 110–53 amended subpar. (I) generally. Prior to amendment, subpar. (I) read as follows: ''The Assistant Secretary of Homeland Security for Information Analysis.''

2006—Subsec. (c)(2)(C). Pub. L. 109–177 added subpar. (C).

2004—Pub. L. 108–458 amended text generally, substituting provisions relating to involvement of Director of National Intelligence in appointments, consisting of subsecs. (a) to (c), for provisions relating to involvement of Director of Central Intelligence in appointments, consisting of subsecs. (a) and (b).

2003—Subsec. (a)(2)(C). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (b)(2)(E). Pub. L. 108–177 added subpar. (E).

2001—Subsec. (b)(2)(C), (D). Pub. L. 107–108 added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: ''The Director of the Office of Nonproliferation and National Security of the Department of Energy.''.

1996—Pub. L. 104–293 amended section generally, substituting provisions relating to appointment of individuals responsible for intelligence-related activities for provisions relating to administrative provisions pertaining to defense elements within the intelligence community.

1994—Subsec. (b). Pub. L. 103–359 substituted ''Central Imagery Office'' for ''central imagery authority'' in heading and text.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3041a. Director of the National Reconnaissance Office

(a) In general

There is a Director of the National Reconnaissance Office.

(b) Appointment

The Director of the National Reconnaissance Office shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions and duties

The Director of the National Reconnaissance Office shall be the head of the National Reconnaissance Office and shall discharge such functions and duties as are provided by this chapter or otherwise by law or executive order.

(July 26, 1947, ch. 343, title I, § 106A, as added Pub. L. 113–126, title IV, § 411(a), July 7, 2014, 128 Stat. 1409.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective Oct. 1, 2014, and applicable upon the earlier of the date of the first nomination by the President of an individual to serve as the Director of the National Reconnaissance Office that occurs on or after Oct. 1, 2014, or the date of the cessation of the performance of the duties of the Director of the National Reconnaissance Office by the individual performing such duties on Oct. 1, 2014, subject to an exception for initial nominations, see section 413 of Pub. L. 113–126, set out as an Effective Date of 2014 Amendment note under section 8G of the Inspector General Act of 1978, Pub. L. 95–452, in the Appendix to Title 5, Government Organization and Employees.

POSITION OF IMPORTANCE AND RESPONSIBILITY

Pub. L. 113–126, title IV, § 411(b), July 7, 2014, 128 Stat. 1409, provided that:

''(1) IN GENERAL.—The President may designate the Director of the National Reconnaissance Office as a position of importance and responsibility under section 601 of title 10, United States Code.

''(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date of the enactment of this Act [July 7, 2014].''

§ 3042. Emergency preparedness

(a) Employment of personnel

The Director of the Office of Defense Mobilization, subject to the direction of the President, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to assist the Director in carrying out his functions.

(b) Functions

It shall be the function of the Director of the Office of Defense Mobilization to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

(c) Utilization of Government resources and facilities

In performing his functions, the Director of the Office of Defense Mobilization shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

(July 26, 1947, ch. 343, title I, § 107, formerly § 103, 61 Stat. 499; Sept. 3, 1954, ch. 1263, § 50, 68 Stat. 1244; renumbered § 107, Pub. L. 102–496, title VII, § 705(a)(2), Oct. 24, 1992, 106 Stat. 3190.)

CODIFICATION

Section was formerly classified to section 404 of this title prior to editorial reclassification and renumbering as this section.

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

For subsequent history relating to the Office of Defense Mobilization, see Transfer of Functions notes below.

AMENDMENTS

1954—Act Sept. 3, 1954, § 50(1), (2), struck out subsec. (a) which related to establishment of National Security Resources Board and redesignated subsecs. (b) to (d) as (a) to (c), respectively.

Subsec. (a). Act Sept. 3, 1954, § 50(3)–(5), substituted ''Director of the Office of Defense Mobilization'' for ''Chairman of the Board'', ''Classification Act of 1949'' for ''Classification Act of 1923, as amended'', and ''Director in carrying out his'' for ''Board in carrying out its''.

Subsec. (b). Act Sept. 3, 1954, § 50(6), substituted ''Director of the Office of Defense Mobilization'' for ''Board'' in introductory provisions.

Subsec. (c). Act Sept. 3, 1954, § 50(7), substituted ''his functions, the Director of the Office of Defense Mobilization'' for ''its functions, the Board''.

TRANSFER OF FUNCTIONS

Office of Defense Mobilization and Federal Civil Defense Administration consolidated to form Office of Emergency Preparedness, an agency within Executive

Office of President, by section 2(a), (e) of Reorg. Plan No. 1 of 1958, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended by Pub. L. 85–763, Aug. 26, 1958, 72 Stat. 861; Pub. L. 87–296, § 1, Sept. 22, 1961, 75 Stat. 630; Pub. L. 90–608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, set out in the Appendix to Title 5, Government Organization and Employees, and functions vested by law in Office of Defense Mobilization and Director thereof transferred to President, with power to delegate, by section 1 of Reorg. Plan No. 1 of 1958.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law, after July 1, 1958, in Office of Emergency Preparedness or Director of Office of Emergency Preparedness transferred to President of United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

Authority vested in Director of Office of Emergency Preparedness as of June 30, 1973, by Executive Order, proclamation, or other directive issued by or on behalf of President or otherwise under this section and Ex. Ord. No. 10421, formerly set out below, with certain exceptions, transferred to Administrator of General Services by Ex. Ord. No. 11725, § 3, June 27, 1973, 38 F.R. 17175, formerly set out under section 2271 of the Appendix to this title, to be exercised in conformance with such guidance as provided by National Security Council and, with respect to economic and disposal aspects of stockpiling of strategic and critical materials by Council on Economic Policy. Functions of Administrator of General Services under this chapter performed by Federal Preparedness Agency within General Services Administration.

Functions delegated or assigned to Federal Preparedness Agency, General Services Administration, transferred or reassigned to Secretary of Homeland Security, and Ex. Ord. No. 11725 revoked, by Ex. Ord. No. 12148, §§ 1–103, 5–112, July 20, 1979, 44 F.R. 43239, 43243, as amended by Ex. Ord. No. 13286, § 52, Feb. 28, 2003, 68 F.R. 10628, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

Functions vested in Director of Office of Defense Mobilization by section 103 of act July 26, 1947, as amended by section 50 of act Sept. 3, 1954, and transferred to President by section 1(a) of Reorganization Plan No. 1 of 1958, as amended, delegated to Secretary of Homeland Security by Ex. Ord. No. 12148, § 4–102, July 20, 1979, 44 F.R. 43239, as amended by Ex. Ord. No. 13286, § 52, Feb. 28, 2003, 68 F.R. 10628, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

For assignment of certain emergency preparedness functions to Secretary of Homeland Security, see parts 1, 2, and 17 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, as amended, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 9905

Ex. Ord. No. 9905, Nov. 13, 1947, 12 F.R. 7613, as amended by Ex. Ord. No. 9931, Feb. 19, 1948, 13 F.R. 763, provided for membership of National Security Resources Board and defined functions, duties and authority of Chairman of Board.

EXECUTIVE ORDER NO. 10169

Ex. Ord. No. 10169, Oct. 11, 1950, 15 F.R. 6901, which provided for a National Advisory Committee on Mobilization Policy, was revoked by Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out under section 2153 of the Appendix to this title.

EXECUTIVE ORDER NO. 10421

Ex. Ord. No. 10421, Dec. 31, 1952, 18 F.R. 57, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which related to physical security of defense facilities, was revoked by Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10438

Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491, which related to transfer of functions to Director of Defense Mobilization, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out under section 5195 of Title 42, The Public Health and Welfare.

§ 3043. Annual national security strategy report

(a) Transmittal to Congress

(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a ''national security strategy report'').

(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31.

(3) Not later than 150 days after the date on which a new President takes office, the President shall transmit to Congress a national security strategy report under this section. That report shall be in addition to the report for that year transmitted at the time specified in paragraph (2).

(b) Contents

Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

(c) Classified and unclassified form

Each national security strategy report shall be transmitted in both a classified and an unclassified form.

(July 26, 1947, ch. 343, title I, § 108, formerly § 104, as added Pub. L. 99–433, title VI, § 603(a)(1), Oct. 1, 1986, 100 Stat. 1074; renumbered § 108, Pub. L. 102–496, title VII, § 705(a)(2), Oct. 24, 1992, 106 Stat. 3190; amended Pub. L. 106–65, div. A, title IX, § 901(b), Oct. 5, 1999, 113 Stat. 717.)

CODIFICATION

Section was formerly classified to section 404a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1999—Subsec. (a)(3). Pub. L. 106–65 added par. (3).

NATIONAL SECURITY PLANNING GUIDANCE TO DENY SAFE HAVENS TO AL-QAEDA AND ITS VIOLENT EXTREMIST AFFILIATES

Pub. L. 112–81, div. A, title X, § 1032, Dec. 31, 2011, 125 Stat. 1571, as amended by Pub. L. 113–291, div. A, title XII, § 1262, Dec. 19, 2014, 128 Stat. 3580, provided that:

''(a) PURPOSE.—The purpose of this section is to improve interagency strategic planning and execution to more effectively integrate efforts to deny safe havens and strengthen at-risk states to further the goals of the National Security Strategy related to the disruption, dismantlement, and defeat of al-Qaeda and its violent extremist affiliates.

''(b) NATIONAL SECURITY PLANNING GUIDANCE.—

''(1) GUIDANCE REQUIRED.—The President shall issue classified or unclassified national security planning guidance in support of objectives stated in the national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a) [now 50 U.S.C. 3043] to deny safe havens to al-Qaeda and its violent extremist affiliates and to strengthen at-risk states. Such guidance shall serve as the strategic plan that governs United States and coordinated international efforts to enhance the capacity of governmental and nongovernmental entities to work toward the goal of eliminating the ability of al-Qaeda and its violent extremist affiliates to establish or maintain safe havens.

''(2) CONTENTS OF GUIDANCE.—The guidance required under paragraph (1) shall include each of the following:

''(A) A prioritized list of specified geographic areas that the President determines are necessary to address and an explicit discussion and list of the criteria or rationale used to prioritize the areas on the list, including a discussion of the conditions that would hamper the ability of the United States to strengthen at-risk states or other entities in such areas.

''(B) For each specified geographic area, a description, analysis, and discussion of the core problems and contributing issues that allow or could allow al-Qaeda and its violent extremist affiliates to use the area as a safe haven from which to plan and launch attacks, engage in propaganda, or raise funds and other support, including any ongoing or potential radicalization of the population, or to use the area as a key transit route for personnel, weapons, funding, or other support.

''(C) For each specified geographic area, a description of the following:

''(i) The feasibility of conducting multilateral programs to train and equip the military forces of relevant countries in the area.

''(ii) The authority and funding that would be required to support such programs.

''(iii) How such programs would be implemented.

''(iv) How such programs would support the national security priorities and interests of the United States and complement other efforts of the United States Government in the area and in other specified geographic areas.

''(D) A list of short-term, mid-term, and long-term goals for each specified geographic area, prioritized by importance.

''(E) A description of the role and mission of each Federal department and agency involved in executing the guidance, including the Departments of Defense, Justice, Treasury, and State and the Agency for International Development.

''(F) A description of gaps in United States capabilities to meet the goals listed pursuant to subparagraph (D), and the extent to which those gaps can be met through coordination with nongovernmental, international, or private sector organizations, entities, or companies.

''(3) REVIEW AND UPDATE OF GUIDANCE.—The President shall review and update the guidance required under paragraph (1) as necessary. Any such review shall address each of the following:

''(A) The overall progress made toward achieving the goals listed pursuant to paragraph (2)(D), including an overall assessment of the progress in denying a safe haven to al-Qaeda and its violent extremist affiliates.

''(B) The performance of each Federal department and agency involved in executing the guidance.

''(C) The performance of the unified country team and appropriate combatant command, or in the case of a cross-border effort, country teams in the area and the appropriate combatant command.

''(D) Any addition to, deletion from, or change in the order of the prioritized list maintained pursuant to paragraph (2)(A).

''(4) REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014], the President shall submit to the appropriate congressional committees a report that contains a detailed summary of the national security planning guidance required under paragraph (1), including any updates thereto.

''(B) FORM.—The report may include a classified annex as determined to be necessary by the President.

''(C) DEFINITION.—In this paragraph, the term 'appropriate congressional committees' means—

''(i) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

''(ii) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

''(5) SPECIFIED GEOGRAPHIC AREA DEFINED.—In this subsection, the term 'specified geographic area' means any country, subnational territory, or region—

''(A) that serves or may potentially serve as a safe haven for al-Qaeda or a violent extremist affiliate of al-Qaeda—

''(i) from which to plan and launch attacks, engage in propaganda, or raise funds and other support; or

''(ii) for use as a key transit route for personnel, weapons, funding, or other support; and

''(B) over which one or more governments or entities exert insufficient governmental or security control to deny al-Qaeda and its violent extremist affiliates the ability to establish a large scale presence.''

IMPLEMENTATION PLAN FOR WHOLE-OF-GOVERNMENT VISION PRESCRIBED IN THE NATIONAL SECURITY STRATEGY

Pub. L. 112–81, div. A, title X, § 1072, Dec. 31, 2011, 125 Stat. 1592, provided that:

''(a) IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act [Dec. 31, 2011], the President shall submit to the appropriate congressional committees an implementation plan for achieving the whole-of-government integration vision prescribed in the President's National Security Strategy of May 2010. The implementation plan shall include—

''(1) a description of ongoing and future actions planned to be taken by the President and the Executive agencies to implement organizational changes,

programs, and any other efforts to achieve each component of the whole-of-government vision prescribed in the National Security Strategy;

''(2) a timeline for specific actions taken and planned to be taken by the President and the Executive agencies to implement each component of the whole-of-government vision prescribed in the National Security Strategy;

''(3) an outline of specific actions desired or required to be taken by Congress to achieve each component of the whole-of-government vision prescribed in the National Security Strategy, including suggested timing and sequencing of actions proposed for Congress and the Executive agencies;

''(4) any progress made and challenges or obstacles encountered since May 2010 in implementing each component of the whole-of-government vision prescribed in the National Security Strategy; and

''(5) such other information as the President determines is necessary to understand progress in implementing each component of the whole-of-government vision prescribed in the National Security Strategy.

''(b) ANNUAL UPDATES.—Not later than December 1 of each subsequent year that the National Security Strategy of May 2010 remains the policy of the President, the President shall submit to the appropriate congressional committees an update of the implementation plan required under subsection (a). Each such update shall include an explanation of—

''(1) any progress made and challenges or obstacles encountered in implementing each component of the whole-of-government vision prescribed in the National Security Strategy since the submission of the implementation plan or most recent update; and

''(2) any modifications to the implementation plan.

''(c) DEFINITIONS.—In this section:

''(1) The term 'appropriate congressional committees' means—

''(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

''(B) the Committee on Foreign Relations, Select Committee on Intelligence, Committee on Homeland Security and Government Affairs, Committee on the Budget, Committee on the Judiciary, and Committee on Appropriations in the Senate; and

''(C) the Committee on Foreign Affairs, Permanent Select Committee on Intelligence, Committee on Homeland Security, Committee on the Budget, Committee on the Judiciary, Committee on Oversight and Government Reform, and Committee on Appropriations in the House of Representatives.

''(2) The term 'Executive agency' has the meaning given that term by section 105 of title 5, United States Code.''

NATIONAL COMMISSION ON THE FUTURE ROLE OF UNITED STATES NUCLEAR WEAPONS, PROBLEMS OF COMMAND, CONTROL, AND SAFETY OF SOVIET NUCLEAR WEAPONS, AND REDUCTION OF NUCLEAR WEAPONS

Pub. L. 102–172, title VIII, § 8132, Nov. 26, 1991, 105 Stat. 1208, provided for establishment of a National Commission which was to submit to Congress, not later than May 1, 1993, a final report containing an assessment and recommendations regarding role of, and requirements for, nuclear weapons in security strategy of United States as result of significant changes in former Warsaw Pact, former Soviet Union, and Third World, including possibilities for international cooperation with former Soviet Union regarding such problems, and safeguards to protect against accidental or unauthorized use of nuclear weapons, further directed Commission to obtain study from National Academy of Sciences on these matters, further authorized establishment of joint working group comprised of experts from governments of United States and former Soviet Union which was to meet on regular basis and provide recommendations regarding these matters, and further provided for composition of Commission as well as powers, procedures, personnel matters, appropriations, and termination of Commission upon submission of its final report.

§ 3043a. National intelligence strategy

(a) In general

Beginning in 2017, and once every 4 years thereafter, the Director of National Intelligence shall develop a comprehensive national intelligence strategy to meet national security objectives for the following 4-year period, or a longer period, if appropriate.

(b) Requirements

Each national intelligence strategy required by subsection (a) shall—

(1) delineate a national intelligence strategy consistent with—

(A) the most recent national security strategy report submitted pursuant to section 3043 of this title;

(B) the strategic plans of other relevant departments and agencies of the United States; and

(C) other relevant national-level plans;

(2) address matters related to national and military intelligence, including counterintelligence;

(3) identify the major national security missions that the intelligence community is currently pursuing and will pursue in the future to meet the anticipated security environment;

(4) describe how the intelligence community will utilize personnel, technology, partnerships, and other capabilities to pursue the major national security missions identified in paragraph (3);

(5) assess current, emerging, and future threats to the intelligence community, including threats from foreign intelligence and security services and insider threats;

(6) outline the organizational roles and missions of the elements of the intelligence community as part of an integrated enterprise to meet customer demands for intelligence products, services, and support;

(7) identify sources of strategic, institutional, programmatic, fiscal, and technological risk; and

(8) analyze factors that may affect the intelligence community's performance in pursuing the major national security missions identified in paragraph (3) during the following 10-year period.

(c) Submission to Congress

The Director of National Intelligence shall submit to the congressional intelligence committees a report on each national intelligence strategy required by subsection (a) not later than 45 days after the date of the completion of such strategy.

(July 26, 1947, ch. 343, title I, § 108A, as added Pub. L. 113–293, title III, § 303(a), Dec. 19, 2014, 128 Stat. 3994.)

§ 3044. Software licensing

(a) Requirement for inventories of software licenses

The chief information officer of each element of the intelligence community, in consultation

with the Chief Information Officer of the Intelligence Community, shall biennially—

(1) conduct an inventory of all existing software licenses of such element, including utilized and unutilized licenses;

(2) assess the actions that could be carried out by such element to achieve the greatest possible economies of scale and associated cost savings in software procurement and usage, including—

(A) increasing the centralization of the management of software licenses;

(B) increasing the regular tracking and maintaining of comprehensive inventories of software licenses using automated discovery and inventory tools and metrics;

(C) analyzing software license data to inform investment decisions; and

(D) providing appropriate personnel with sufficient software licenses management training; and

(3) submit to the Chief Information Officer of the Intelligence Community each inventory required by paragraph (1) and each assessment required by paragraph (2).

(b) Inventories by the Chief Information Officer of the Intelligence Community

The Chief Information Officer of the Intelligence Community, based on the inventories and assessments required by subsection (a), shall biennially—

(1) compile an inventory of all existing software licenses of the intelligence community, including utilized and unutilized licenses;

(2) assess the actions that could be carried out by the intelligence community to achieve the greatest possible economies of scale and associated cost savings in software procurement and usage, including—

(A) increasing the centralization of the management of software licenses;

(B) increasing the regular tracking and maintaining of comprehensive inventories of software licenses using automated discovery and inventory tools and metrics;

(C) analyzing software license data to inform investment decisions; and

(D) providing appropriate personnel with sufficient software licenses management training; and

(3) based on the assessment required under paragraph (2), make such recommendations with respect to software procurement and usage to the Director of National Intelligence as the Chief Information Officer considers appropriate.

(c) Reports to Congress

The Chief Information Officer of the Intelligence Community shall submit to the congressional intelligence committees a copy of each inventory compiled under subsection (b)(1).

(d) Implementation of recommendations

Not later than 180 days after the date on which the Director of National Intelligence receives recommendations from the Chief Information Officer of the Intelligence Community in accordance with subsection (b)(3), the Director of National Intelligence shall, to the extent practicable, issue guidelines for the intelligence community on software procurement and usage based on such recommendations.

(July 26, 1947, ch. 343, title I, § 109, as added Pub. L. 113–126, title III, § 307(a), July 7, 2014, 128 Stat. 1396; amended Pub. L. 113–293, title III, § 304, Dec. 19, 2014, 128 Stat. 3995.)

PRIOR PROVISIONS

A prior section 3044, act July 26, 1947, ch. 343, title I, § 109, as added Pub. L. 103–178, title III, § 304(a), Dec. 3, 1993, 107 Stat. 2034; amended Pub. L. 104–293, title VIII, § 803(a), (b)(1), Oct. 11, 1996, 110 Stat. 3475, 3476; Pub. L. 106–65, div. A, title X, § 1067(16), Oct. 5, 1999, 113 Stat. 775; Pub. L. 107–306, title VIII, § 811(b)(1)(B), Nov. 27, 2002, 116 Stat. 2422, related to annual report on intelligence, prior to repeal by Pub. L. 111–259, title III, § 347(a), Oct. 7, 2010, 124 Stat. 2698.

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–293, § 304(1), substituted ''usage, including—'' for ''usage; and'' in introductory provisions and added subpars. (A) to (D).

Subsec. (b)(2). Pub. L. 113–293, § 304(2)(B), substituted ''usage, including—'' for ''usage.'' in introductory provisions and added subpars. (A) to (D).

Subsec. (b)(3). Pub. L. 113–293, § 304(2)(A), (C), added par. (3).

Subsec. (d). Pub. L. 113–293, § 304(3), added subsec. (d).

INITIAL INVENTORY

Pub. L. 113–126, title III, § 307(b), July 7, 2014, 128 Stat. 1397, provided that:

''(1) INTELLIGENCE COMMUNITY ELEMENTS.—

''(A) DATE.—Not later than 120 days after the date of the enactment of this Act [July 7, 2014], the chief information officer of each element of the intelligence community shall complete the initial inventory, assessment, and submission required under section 109(a) of the National Security Act of 1947 [50 U.S.C. 3044(a)], as added by subsection (a) of this section.

''(B) BASIS.—The initial inventory conducted for each element of the intelligence community under section 109(a)(1) of the National Security Act of 1947 [50 U.S.C. 3044(a)(1)], as added by subsection (a) of this section, shall be based on the inventory of software licenses conducted pursuant to section 305 of the Intelligence Authorization Act for Fiscal Year 2013 (Public Law 112–277; 126 Stat. 2472) for such element.

''(2) CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.—Not later than 180 days after the date of the enactment of this Act [July 7, 2014], the Chief Information Officer of the Intelligence Community shall complete the initial compilation and assessment required under section 109(b) of the National Security Act of 1947 [50 U.S.C. 3044(b)], as added by subsection (a).''

[For definition of ''intelligence community'' as used in section 307(b) of Pub. L. 113–126, set out above, see section 2 of Pub. L. 113–126, set out as a note under section 3003 of this title.]

§ 3045. National mission of National Geospatial-Intelligence Agency

(a) In general

In addition to the Department of Defense missions set forth in section 442 of title 10, the National Geospatial-Intelligence Agency shall support the geospatial intelligence requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense.

(b) Requirements and priorities

The Director of National Intelligence shall establish requirements and priorities governing

the collection of national intelligence by the National Geospatial-Intelligence Agency under subsection (a) of this section.

(c) Correction of deficiencies

The Director of National Intelligence shall develop and implement such programs and policies as the Director and the Secretary of Defense jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Geospatial-Intelligence Agency to accomplish assigned national missions, including support to the all-source analysis and production process. The Director shall consult with the Secretary of Defense on the development and implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.

(July 26, 1947, ch. 343, title I, § 110, formerly § 120, as added Pub. L. 104–201, div. A, title XI, § 1114(b), Sept. 23, 1996, 110 Stat. 2685; renumbered § 110, Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252; amended Pub. L. 108–136, div. A, title IX, § 921(c)(2), (e)(6), Nov. 24, 2003, 117 Stat. 1568, 1569; Pub. L. 108–458, title I, § 1071(a)(1)(I), (J), Dec. 17, 2004, 118 Stat. 3689.)

CODIFICATION

Section was formerly classified to section 404e of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 110 of title I of act July 26, 1947, ch. 343, was classified to section 404g of this title prior to being renumbered section 112 by Pub. L. 105–107, title III, §303(b), Nov. 20, 1997, 111 Stat. 2252. Section 404g of this title was subsequently editorially reclassified and renumbered section 3047 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458, § 1071(a)(1)(I), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c). Pub. L. 108–458, § 1071(a)(1)(J), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Pub. L. 108–136, § 921(e)(6)(B), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in section catchline.

Subsec. (a). Pub. L. 108–136, § 921(c)(2), (e)(6)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' and ''geospatial intelligence'' for ''imagery''.

Subsecs. (b), (c). Pub. L. 108–136, § 921(e)(6)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3046. Repealed. Pub. L. 108–458, title I, § 1075, Dec. 17, 2004, 118 Stat. 3694

Section, act July 26, 1947, ch. 343, title I, § 111, formerly § 121, as added Pub. L. 104–201, div. A, title XI, § 1114(c), Sept. 23, 1996, 110 Stat. 2685; renumbered § 111, Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252, related to collection tasking authority of Director of Central Intelligence.

CODIFICATION

Section was formerly classified to section 404f of this title and repealed prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE OF REPEAL

For Determination by President that repeal take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Repeal effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3047. Restrictions on intelligence sharing with United Nations

(a) Provision of intelligence information to United Nations

(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of National Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

(b) Delegation of duties

The President may not delegate or assign the duties of the President under this section.

(c) Relationship to existing law

Nothing in this section shall be construed to—

(1) impair or otherwise affect the authority of the Director of National Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 3024(i) of this title; or

(2) supersede or otherwise affect the provisions of subchapter III of this chapter.

(d) "Appropriate committees of Congress" defined

As used in this section, the term ''appropriate committees of Congress'' means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

(July 26, 1947, ch. 343, title I, § 112, formerly § 110, as added Pub. L. 104–293, title III, § 308(a), Oct. 11, 1996, 110 Stat. 3466; renumbered § 112, Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252; amended Pub. L. 107–306, title VIII, § 811(b)(1)(C), Nov. 27, 2002, 116 Stat. 2422; Pub. L. 108–177, title III, §§ 361(b), 377(a), Dec. 13, 2003, 117 Stat. 2625, 2630; Pub. L. 108–458, title I, §§ 1071(a)(1)(K), (L), 1072(a)(4), Dec. 17, 2004, 118 Stat. 3689, 3692; Pub. L. 111–259, title III, § 347(b), Oct. 7, 2010, 124 Stat. 2698.)

CODIFICATION

Section was formerly classified to section 404g of this title prior to editorial reclassification and renumbering as this section, and to section 404d–1 of this title prior to renumbering by Pub. L. 105–107. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2010—Subsecs. (b) to (e). Pub. L. 111–259 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows:

''(1) The President shall report annually to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

''(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

''(3) In the case of the annual reports required to be submitted under the first sentence of paragraph (1) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 415b of this title.''

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(K), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (d)(1). Pub. L. 108–458, § 1072(a)(4), which directed amendment of par. (1) by substituting ''section 403–1(i)'' for ''section 403–3(c)(6)'', was executed by making the substitution for ''section 403–3(c)(7)'' to reflect the probable intent of Congress and the amendment by Pub. L. 108–177, § 377(a). See 2003 Amendment note below.

Pub. L. 108–458, § 1071(a)(1)(L), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Subsec. (b). Pub. L. 108–177, § 361(b)(1), substituted ''Annual'' for ''Periodic'' in heading.

Subsec. (b)(1). Pub. L. 108–177, § 361(b)(2), substituted ''annually'' for ''semiannually''.

Subsec. (b)(3). Pub. L. 108–177, § 361(b)(3), substituted ''the annual'' for ''periodic''.

Subsec. (d)(1). Pub. L. 108–177, § 377(a), substituted ''section 403–3(c)(7)'' for ''section 403–3(c)(6)''.

2002—Subsec. (b)(3). Pub. L. 107–306 added par. (3).

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 361(b) of Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

§ 3048. Detail of intelligence community personnel—Intelligence Community Assignment Program

(a) Detail

(1) Notwithstanding any other provision of law, the head of a department with an element in the intelligence community or the head of an intelligence community agency or element may detail any employee within that department, agency, or element to serve in any position in the Intelligence Community Assignment Program on a reimbursable or a nonreimbursable basis.

(2) Nonreimbursable details may be for such periods as are agreed to between the heads of the parent and host agencies, up to a maximum of three years, except that such details may be extended for a period not to exceed one year when the heads of the parent and host agencies determine that such extension is in the public interest.

(b) Benefits, allowances, travel, incentives

(1) An employee detailed under subsection (a) of this section may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which the employee is detailed.

(2) The head of an agency of an employee detailed under subsection (a) of this section may pay a lodging allowance for the employee subject to the following conditions:

(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of National Intelligence and—

(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

(C) The lodging is within a reasonable proximity of the host agency duty station.

(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employees parent duty station.

(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS–15 of the General Schedule.

(July 26, 1947, ch. 343, title I, § 113, as added Pub. L. 105–107, title III, § 303(a), Nov. 20, 1997, 111 Stat. 2251; amended Pub. L. 107–108, title III, § 304, Dec. 28, 2001, 115 Stat. 1398; Pub. L. 107–306, title VIII, § 841(a), Nov. 27, 2002, 116 Stat. 2431; Pub. L. 108–458, title I, § 1071(a)(1)(M), Dec. 17, 2004, 118 Stat. 3689.)

REFERENCES IN TEXT

GS–15 of the General Schedule, referred to in subsec. (b)(2)(F), is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 404h of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2004—Subsec. (b)(2)(A). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

2002—Subsec. (c). Pub. L. 107–306 struck out heading and text of subsec. (c). Text read as follows: ''Not later than March 1, 1999, and annually thereafter, the Director of Central Intelligence 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 describing the detail of intelligence community personnel pursuant to subsection (a) of this section during the 12-month period ending on the date of the report. The report shall set forth the number of personnel detailed, the identity of parent and host agencies or elements, and an analysis of the benefits of the details.''

2001—Subsec. (b). Pub. L. 107–108 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE

Pub. L. 105–107, title III, § 303(d), Nov. 20, 1997, 111 Stat. 2252, provided that: ''The amendment made by subsection (a) [enacting this section] shall apply to an employee on detail on or after January 1, 1997.''

§ 3049. Non-reimbursable detail of other personnel

An officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a non-reimbursable basis, as jointly agreed to by the heads of the receiving and detailing elements, for a period not to exceed three years. This section does not limit any other source of authority for reimbursable or non-reimbursable details. A non-reimbursable detail made under this section shall not be considered an augmentation of the appropriations of the receiving element of the intelligence community.

(July 26, 1947, ch. 343, title I, § 113A, as added Pub. L. 111–259, title III, § 302(a), Oct. 7, 2010, 124 Stat. 2658; amended Pub. L. 112–18, title III, § 303(a), June 8, 2011, 125 Stat. 226; Pub. L. 112–277, title III, § 303, Jan. 14, 2013, 126 Stat. 2471.)

CODIFICATION

Section was formerly classified to section 404h–1 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2013—Pub. L. 112–277 substituted ''three years.'' for ''two years.'' and inserted at end ''A non-reimbursable detail made under this section shall not be considered an augmentation of the appropriations of the receiving element of the intelligence community.''

2011—Pub. L. 112–18 amended section generally. Prior to amendment, text read as follows: ''Except as provided in section 402c(g)(2) of this title and section 404h of this title, and notwithstanding any other provision of law, an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the head of the receiving element and the head of the detailing element, for a period not to exceed 2 years.''

§ 3050. Annual report on hiring and retention of minority employees

(a) In general

The Director of National Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

(b) Content

Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

(1) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

(2) Of all individuals employed in the element during the fiscal year involved at the levels referred to in subparagraphs (A) and (B), the percentage of covered persons employed at such levels:

(A) Positions at levels 1 through 15 of the General Schedule.

(B) Positions at levels above GS–15.

(3) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

(c) Form

Each such report shall be submitted in unclassified form, but may contain a classified annex.

(d) Construction

Nothing in this section shall be construed as providing for the substitution of any similar report required under another provision of law.

(e) "Covered persons" defined

In this section the term ''covered persons'' means—

(1) racial and ethnic minorities;

(2) women; and

(3) individuals with disabilities.

(July 26, 1947, ch. 343, title I, § 114, as added Pub. L. 105–272, title III, § 307(a), Oct. 20, 1998, 112 Stat. 2401; amended Pub. L. 107–306, title III, §§ 324, 353(b)(6), title VIII, §§ 811(b)(1)(D), 821, 822, Nov. 27, 2002, 116 Stat. 2393, 2402, 2422, 2426, 2427; Pub. L. 108–177, title III, § 361(c), (d), Dec. 13, 2003, 117 Stat. 2625; Pub. L. 108–458, title I, § 1071(a)(1)(N), (O), (3)(A), (7), Dec. 17, 2004, 118 Stat. 3689, 3690; Pub. L. 112–277, title III, § 310(a)(2), Jan. 14, 2013, 126 Stat. 2474; Pub. L. 113–126, title III, § 329(a)(1), (c)(2), July 7, 2014, 128 Stat. 1405, 1406.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 404i of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2014—Pub. L. 113–126, § 329(c)(2)(A), substituted ''Annual report on hiring and retention of minority employees'' for ''Additional annual reports from the Director of National Intelligence'' in section catchline.

Subsec. (a). Pub. L. 113–126, § 329(c)(2)(B), (C), struck out subsec. (a) designation and heading ''Annual report on hiring and retention of minority employees'' and redesignated par. (1) as subsec. (a). Former pars. (2) to (5) redesignated subsecs. (b) to (e), respectively.

Subsec. (b). Pub. L. 113–126, § 329(c)(2)(C), (D), redesignated subsec. (a)(2) as (b), redesignated subpars. (A) to (C) of former subsec. (a)(2) as pars. (1) to (3), respectively, of subsec. (b), and in par. (2) as redesignated, substituted ''subparagraphs (A) and (B)'' for ''clauses (i) and (ii)'' in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively.

Pub. L. 113–126, § 329(a)(1), struck out subsec. (b) which related to annual report on threat of attack on the United States using weapons of mass destruction.

Subsec. (c). Pub. L. 113–126, § 329(c)(2)(C), redesignated subsec. (a)(3) as (c).

Subsec. (d). Pub. L. 113–126, § 329(c)(2)(C), (E), redesignated subsec. (a)(4) as (d) and substituted ''section'' for ''subsection''.

Subsec. (e). Pub. L. 113–126, § 329(c)(2)(C), (F), redesignated subsec. (a)(5) as (e), substituted ''section'' for ''subsection,'' in introductory provisions, and redesignated subpars. (A) to (C) of former subsec. (a)(5) as pars. (1) to (3), respectively, of subsec. (e).

2013—Pub. L. 112–277 redesignated subsecs. (b) and (c) as (a) and (b), respectively, struck out former subsec. (a) which required annual reports on the safety and security of Russian nuclear facilities and nuclear military forces, and struck out subsec. (d) which defined the term ''congressional leadership''.

2004—Pub. L. 108–458, § 1071(a)(7), substituted ''Additional annual reports from the Director of National Intelligence'' for ''Additional annual reports from the Director of Central Intelligence'' in section catchline.

Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(N), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(O), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c)(1). Pub. L. 108–458, § 1071(a)(3)(A), substituted ''Director of National Intelligence'' for ''Director''.

2003—Subsec. (a). Pub. L. 108–177, § 361(c), redesignated subsec. (b) as (a) and struck out former subsec. (a), which related to annual reports on intelligence community cooperation with Federal law enforcement agencies.

Subsecs. (b), (c). Pub. L. 108–177, § 361(c)(2), redesignated subsecs. (c) and (d) as (b) and (c), respectively. Former subsec. (b) redesignated (a).

Subsec. (d). Pub. L. 108–177, § 361(d), redesignated subsec. (e) as (d) and struck out former subsec. (d), which related to annual reports on covert leases of the intelligence community.

Pub. L. 108–177, § 361(c)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 108–177, § 361(d)(2), redesignated subsec. (e) as (d).

Pub. L. 108–177, § 361(c)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 108–177, § 361(c)(2), redesignated subsec. (f) as (e).

2002—Subsec. (a)(1). Pub. L. 107–306, § 811(b)(1)(D)(i)(I), struck out ''the congressional intelligence committees and'' before ''the congressional leadership''.

Subsec. (a)(2) to (4). Pub. L. 107–306, § 811(b)(1)(D)(i)(II), (III), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b)(1). Pub. L. 107–306, § 811(b)(1)(D)(ii), substituted ''submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 415b of this title,'' for '', on an annual basis, submit to the congressional intelligence committees and the congressional leadership''.

Subsec. (c). Pub. L. 107–306, § 324(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–306, § 821(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 107–306, § 353(b)(6), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''In this section:

''(1) The term 'congressional intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

''(2) The term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.''

Pub. L. 107–306, § 324(1), redesignated subsec. (c) as (d).

Subsec (e). Pub. L. 107–306, § 822(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 107–306, § 821(1), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 107–306, § 822(1), redesignated subsec. (e) as (f).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

REPORT AND STRATEGIC PLAN ON BIOLOGICAL WEAPONS

Pub. L. 111–259, title III, § 335, Oct. 7, 2010, 124 Stat. 2688, provided that:

''(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act [Oct. 7, 2010], the Director of National Intelligence shall submit to the congressional intelligence committees a report on—

''(1) the intelligence collection efforts of the United States dedicated to assessing the threat from biological weapons from state, nonstate, or rogue actors, either foreign or domestic; and

''(2) efforts to protect the biodefense knowledge and infrastructure of the United States.

''(b) CONTENT.—The report required by subsection (a) shall include—

''(1) an assessment of the intelligence collection efforts of the United States dedicated to detecting the development or use of biological weapons by state, nonstate, or rogue actors, either foreign or domestic;

''(2) information on fiscal, human, technical, open-source, and other intelligence collection resources of the United States dedicated for use to detect or protect against the threat of biological weapons;

''(3) an assessment of any problems that may reduce the overall effectiveness of United States intelligence collection and analysis to identify and protect biological weapons targets, including—

''(A) intelligence collection gaps or inefficiencies;

''(B) inadequate information sharing practices; or

''(C) inadequate cooperation among departments or agencies of the United States;

''(4) a strategic plan prepared by the Director of National Intelligence, in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons;

''(5) a description of appropriate goals, schedules, milestones, or metrics to measure the long-term effectiveness of actions implemented to carry out the plan described in paragraph (4); and

''(6) any long-term resource and human capital issues related to the collection of intelligence regarding biological weapons, including any recommendations to address shortfalls of experienced and qualified staff possessing relevant scientific, language, and technical skills.

''(c) IMPLEMENTATION OF STRATEGIC PLAN.—Not later than 30 days after the date on which the Director of National Intelligence submits the report required by subsection (a), the Director shall begin implementation of the strategic plan referred to in subsection (b)(4).''

[For definitions of terms used in section 335 of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a Definitions note under section 3003 of this title.]

DATE FOR FIRST REPORT ON COOPERATION WITH CIVILIAN LAW ENFORCEMENT AGENCIES

Pub. L. 105–272, title III, § 307(c), Oct. 20, 1998, 112 Stat. 2402, provided that the first report under former subsec. (a) of this section was to be submitted not later than Dec. 31, 1999.

§ 3051. Repealed. Pub. L. 111–259, title III, § 347(c), Oct. 7, 2010, 124 Stat. 2698

Section, act July 26, 1947, ch. 343, title I, § 114A, as added Pub. L. 107–306, title VIII, § 823(a), Nov. 27, 2002, 116 Stat. 2427; amended Pub. L. 108–136, div. A, title IX, § 921(g), Nov. 24, 2003, 117 Stat. 1570; Pub. L. 108–458, title I, § 1071(a)(4), Dec. 17, 2004, 118 Stat. 3690, related to annual report on improvement of financial statements for auditing purposes.

CODIFICATION

Section was formerly classified to section 404i–1 of this title and repealed prior to editorial reclassification and renumbering as this section.

CORRECTING LONG-STANDING MATERIAL WEAKNESSES

Pub. L. 111–259, title III, § 368, Oct. 7, 2010, 124 Stat. 2705, provided that:

''(a) DEFINITIONS.—In this section:

''(1) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term 'covered element of the intelligence community' means—

''(A) the Central Intelligence Agency;

''(B) the Defense Intelligence Agency;

''(C) the National Geospatial-Intelligence Agency;

''(D) the National Reconnaissance Office; or

''(E) the National Security Agency.

''(2) INDEPENDENT AUDITOR.—The term 'independent auditor' means an individual who—

''(A)(i) is a Federal, State, or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

''(ii) is a public accountant who meets such independence standards; and

''(B) is designated as an auditor by the Director of National Intelligence or the head of a covered element of the intelligence community, as appropriate.

''(3) INDEPENDENT REVIEW.—The term 'independent review' means an audit, attestation, or examination conducted by an independent auditor in accordance with generally accepted government auditing standards.

''(4) LONG-STANDING, CORRECTABLE MATERIAL WEAKNESS.—The term 'long-standing, correctable material weakness' means a material weakness—

''(A) that was first reported in the annual financial report of a covered element of the intelligence community for a fiscal year prior to fiscal year 2007; and

''(B) the correction of which is not substantially dependent on a business system that was not implemented prior to the end of fiscal year 2010.

''(5) MATERIAL WEAKNESS.—The term 'material weakness' has the meaning given that term under the Office of Management and Budget Circular A–123, entitled 'Management's Responsibility for Internal Control,' revised December 21, 2004.

''(6) SENIOR INTELLIGENCE MANAGEMENT OFFICIAL.—The term 'senior intelligence management official' means an official within a covered element of the intelligence community who is—

''(A)(i) compensated under the Senior Intelligence Service pay scale; or

''(ii) the head of a covered element of the intelligence community; and

''(B) compensated for employment with funds appropriated pursuant to an authorization of appropriations in this Act [Pub. L. 111–259, see Tables for classification].

''(b) IDENTIFICATION OF SENIOR INTELLIGENCE MANAGEMENT OFFICIALS.—

''(1) REQUIREMENT TO IDENTIFY.—Not later than 30 days after the date of the enactment of this Act [Oct. 7, 2010], the head of a covered element of the intelligence community shall designate a senior intelligence management official of such element to be responsible for correcting each long-standing, correctable material weakness of such element.

''(2) HEAD OF A COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The head of a covered element of the intelligence community may designate himself or herself as the senior intelligence management official responsible for correcting a long-standing, correctable material weakness under paragraph (1).

''(3) REQUIREMENT TO UPDATE DESIGNATION.—If the head of a covered element of the intelligence community determines that a senior intelligence management official designated under paragraph (1) is no longer responsible for correcting a long-standing, correctable material weakness, the head of such element shall designate the successor to such official not later than 10 days after the date of such determination.

''(c) NOTIFICATION.—Not later than 10 days after the date on which the head of a covered element of the intelligence community has designated a senior intelligence management official pursuant to paragraph (1) or (3) of subsection (b), the head of such element shall provide written notification of such designation to the Director of National Intelligence and to such senior intelligence management official.

''(d) CORRECTION OF LONG-STANDING, MATERIAL WEAKNESS.—

''(1) DETERMINATION OF CORRECTION OF DEFICIENCY.—If a long-standing, correctable material weakness is corrected, the senior intelligence management official who is responsible for correcting such long-standing, correctable material weakness shall make and issue a determination of the correction.

''(2) BASIS FOR DETERMINATION.—The determination of the senior intelligence management official under paragraph (1) shall be based on the findings of an independent review.

''(3) NOTIFICATION AND SUBMISSION OF FINDINGS.—A senior intelligence management official who makes a determination under paragraph (1) shall—

''(A) notify the head of the appropriate covered element of the intelligence community of such determination at the time the determination is made; and

''(B) ensure that the independent auditor whose findings are the basis of a determination under paragraph (1) submits to the head of the covered element of the intelligence community and the Director of National Intelligence the findings that such determination is based on not later than 5 days after the date on which such determination is made.

''(e) CONGRESSIONAL OVERSIGHT.—The head of a covered element of the intelligence community shall notify the congressional intelligence committees not later than 30 days after the date—

''(1) on which a senior intelligence management official is designated under paragraph (1) or (3) of subsection (b) and notified under subsection (c); or

''(2) of the correction of a long-standing, correctable material weakness, as verified by an independent auditor under subsection (d)(2).''

[For definition of ''congressional intelligence committees'' as used in section 368 of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a Definitions note under section 3003 of this title.]

§ 3052. Limitation on establishment or operation of diplomatic intelligence support centers

(a) In general

(1) A diplomatic intelligence support center may not be established, operated, or maintained without the prior approval of the Director of National Intelligence.

(2) The Director may only approve the establishment, operation, or maintenance of a diplomatic intelligence support center if the Director determines that the establishment, operation, or maintenance of such center is required to provide necessary intelligence support in furtherance of the national security interests of the United States.

(b) Prohibition of use of appropriations

Amounts appropriated pursuant to authorizations by law for intelligence and intelligence-related activities may not be obligated or expended for the establishment, operation, or maintenance of a diplomatic intelligence support center that is not approved by the Director of National Intelligence.

(c) Definitions

In this section:

(1) The term ''diplomatic intelligence support center'' means an entity to which employees of the various elements of the intelligence community (as defined in section 3003(4) of this title) are detailed for the purpose of providing analytical intelligence support that—

(A) consists of intelligence analyses on military or political matters and expertise to conduct limited assessments and dynamic taskings for a chief of mission; and

(B) is not intelligence support traditionally provided to a chief of mission by the Director of National Intelligence.

(2) The term ''chief of mission'' has the meaning given that term by section 3902(3) of title 22, and includes ambassadors at large and ministers of diplomatic missions of the United States, or persons appointed to lead United States offices abroad designated by the Secretary of State as diplomatic in nature.

(d) Termination

This section shall cease to be effective on October 1, 2000.

(July 26, 1947, ch. 343, title I, § 115, as added Pub. L. 106–120, title III, § 303(a), Dec. 3, 1999, 113 Stat. 1610; amended Pub. L. 108–458, title I, § 1071(a)(1)(P)–(R), Dec. 17, 2004, 118 Stat. 3689.)

CODIFICATION

Section was formerly classified to section 404j of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(P), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b). Pub. L. 108–458, § 1071(a)(1)(Q), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c)(1)(B). Pub. L. 108–458, § 1071(a)(1)(R), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3053. Travel on any common carrier for certain intelligence collection personnel

(a) In general

Notwithstanding any other provision of law, the Director of National Intelligence may authorize travel on any common carrier when such travel, in the discretion of the Director—

(1) is consistent with intelligence community mission requirements, or

(2) is required for cover purposes, operational needs, or other exceptional circumstances necessary for the successful performance of an intelligence community mission.

(b) Authorized delegation of duty

The Director of National Intelligence may only delegate the authority granted by this section to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency, who may delegate such authority to other appropriate officials of the Central Intelligence Agency.

(July 26, 1947, ch. 343, title I, § 116, as added Pub. L. 106–567, title III, § 305(a), Dec. 27, 2000, 114 Stat. 2838; amended Pub. L. 108–458, title I, §§ 1071(a)(1)(S), (3)(B), 1072(a)(5), Dec. 17, 2004, 118 Stat. 3689, 3690, 3692; Pub. L. 111–259, title IV, § 424, Oct. 7, 2010, 124 Stat. 2728.)

CODIFICATION

Section was formerly classified to section 404k of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–259 substituted ‘‘, who may delegate such authority to other appropriate officials of the Central Intelligence Agency.’’ for the period.

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(S), substituted ‘‘Director of National Intelligence’’ for ‘‘Director of Central Intelligence’’ in introductory provisions.

Subsec. (b). Pub. L. 108–458, § 1072(a)(5), which directed amendment of subsec. (b) by substituting ‘‘to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency’’ for ‘‘to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency, the Director may delegate such authority to the Deputy Director for Operations’’, was executed by making the substitution for ‘‘to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency the Director may delegate such authority to the Deputy Director for Operations’’, to reflect the probable intent of Congress.

Pub. L. 108–458, § 1071(a)(3)(B), which directed amendment of subsec. (b) by substituting ‘‘Director of National Intelligence’’ for ‘‘Director’’ each place it appeared, was executed by making the substitution the first place it appeared to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3054. POW/MIA analytic capability

(a) Requirement

(1) The Director of National Intelligence shall, in consultation with the Secretary of Defense, establish and maintain in the intelligence community an analytic capability with responsibility for intelligence in support of the activities of the United States relating to individuals who, after December 31, 1990, are unaccounted for United States personnel.

(2) The analytic capability maintained under paragraph (1) shall be known as the ‘‘POW/MIA analytic capability of the intelligence community’’.

(b) Unaccounted for United States personnel

In this section, the term ‘‘unaccounted for United States personnel’’ means the following:

(1) Any missing person (as that term is defined in section 1513(1) of title 10).

(2) Any United States national who was killed while engaged in activities on behalf of the United States and whose remains have not been repatriated to the United States.

(July 26, 1947, ch. 343, title I, § 117, as added Pub. L. 106–567, title III, § 307(a), Dec. 27, 2000, 114 Stat. 2839; amended Pub. L. 108–458, title I, § 1071(a)(1)(T), Dec. 17, 2004, 118 Stat. 3689.)

CODIFICATION

Section was formerly classified to section 404*l* of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458 substituted ‘‘Director of National Intelligence’’ for ‘‘Director of Central Intelligence’’.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3055. Annual report on financial intelligence on terrorist assets

(a) Annual report

On a[1] annual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding one-year period—

(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

(2) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

(3) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

(b) Immediate notification for emergency designation

In the case of a designation of an individual or entity, or the assets of an individual or entity,

[1] So in original. Probably should be ‘‘an’’.

as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

(c) Submittal date of reports to congressional intelligence committees

In the case of the reports required to be submitted under subsection (a) of this section to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 3106 of this title.

(d) Appropriate congressional committees defined

In this section, the term ''appropriate congressional committees'' means the following:

(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Financial Services of the House of Representatives.

(2) The Select Committee on Intelligence, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(July 26, 1947, ch. 343, title I, § 118, as added Pub. L. 107–306, title III, § 342(a)(1), Nov. 27, 2002, 116 Stat. 2398; amended Pub. L. 111–259, title III, § 347(d), Oct. 7, 2010, 124 Stat. 2698.)

CODIFICATION

Section was formerly classified to section 404m of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Pub. L. 111–259, § 347(d)(1), substituted ''Annual'' for ''Semiannual'' in section catchline.

Subsec. (a). Pub. L. 111–259, § 347(d)(2)(A), (B), in heading, substituted ''Annual'' for ''Semiannual'' and, in introductory provisions, substituted ''annual basis'' for ''semiannual basis'' and ''preceding one-year period'' for ''preceding six-month period''.

Subsec. (a)(2) to (4). Pub. L. 111–259, § 347(d)(2)(C), (D), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: ''the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;''.

Subsec. (d)(1), (2). Pub. L. 111–259, § 347(d)(3), inserted ''the Committee on Armed Services,'' after ''the Committee on Appropriations,''.

§ 3056. National Counterterrorism Center

(a) Establishment of Center

There is within the Office of the Director of National Intelligence a National Counterterrorism Center.

(b) Director of National Counterterrorism Center

(1) There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director of the National Counterterrorism Center may not simultaneously serve in any other capacity in the executive branch.

(c) Reporting

(1) The Director of the National Counterterrorism Center shall report to the Director of National Intelligence with respect to matters described in paragraph (2) and the President with respect to matters described in paragraph (3).

(2) The matters described in this paragraph are as follows:

(A) The budget and programs of the National Counterterrorism Center.

(B) The activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (i).

(C) The conduct of intelligence operations implemented by other elements of the intelligence community; and

(3) The matters described in this paragraph are the planning and progress of joint counterterrorism operations (other than intelligence operations).

(d) Primary missions

The primary missions of the National Counterterrorism Center shall be as follows:

(1) To serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism.

(2) To conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies.

(3) To assign roles and responsibilities as part of its strategic operational planning duties to lead Departments or agencies, as appropriate, for counterterrorism activities that are consistent with applicable law and that support counterterrorism strategic operational plans, but shall not direct the execution of any resulting operations.

(4) To ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

(5) To ensure that such agencies have access to and receive intelligence needed to accomplish their assigned activities.

(6) To serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.

(e) Domestic counterterrorism intelligence

(1) The Center may, consistent with applicable law, the direction of the President, and the guidelines referred to in section 3024(b) of this title, receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.

(2) Any agency authorized to conduct counterterrorism activities may request information from the Center to assist it in its responsibilities, consistent with applicable law and the

guidelines referred to in section 3024(b) of this title.

(f) Duties and responsibilities of Director

(1) The Director of the National Counterterrorism Center shall—

(A) serve as the principal adviser to the Director of National Intelligence on intelligence operations relating to counterterrorism;

(B) provide strategic operational plans for the civilian and military counterterrorism efforts of the United States Government and for the effective integration of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(C) advise the Director of National Intelligence on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President;

(D) disseminate terrorism information, including current terrorism threat analysis, to the President, the Vice President, the Secretaries of State, Defense, and Homeland Security, the Attorney General, the Director of the Central Intelligence Agency, and other officials of the executive branch as appropriate, and to the appropriate committees of Congress;

(E) support the Department of Justice and the Department of Homeland Security, and other appropriate agencies, in fulfillment of their responsibilities to disseminate terrorism information, consistent with applicable law, guidelines referred to in section 3024(b) of this title, Executive orders and other Presidential guidance, to State and local government officials, and other entities, and coordinate dissemination of terrorism information to foreign governments as approved by the Director of National Intelligence;

(F) develop a strategy for combining terrorist travel intelligence operations and law enforcement planning and operations into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility;

(G) have primary responsibility within the United States Government for conducting net assessments of terrorist threats;

(H) consistent with priorities approved by the President, assist the Director of National Intelligence in establishing requirements for the intelligence community for the collection of terrorism information; and

(I) perform such other duties as the Director of National Intelligence may prescribe or are prescribed by law.

(2) Nothing in paragraph (1)(G) shall limit the authority of the departments and agencies of the United States to conduct net assessments.

(g) Limitation

The Director of the National Counterterrorism Center may not direct the execution of counterterrorism operations.

(h) Resolution of disputes

The Director of National Intelligence shall resolve disagreements between the National Counterterrorism Center and the head of a department, agency, or element of the United States Government on designations, assignments, plans, or responsibilities under this section. The head of such a department, agency, or element may appeal the resolution of the disagreement by the Director of National Intelligence to the President.

(i) Directorate of Intelligence

The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence which shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States.

(j) Directorate of Strategic Operational Planning

(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Strategic Operational Planning which shall provide strategic operational plans for counterterrorism operations conducted by the United States Government.

(2) Strategic operational planning shall include the mission, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities.

(3) The Director of the National Counterterrorism Center shall monitor the implementation of strategic operational plans, and shall obtain information from each element of the intelligence community, and from each other department, agency, or element of the United States Government relevant for monitoring the progress of such entity in implementing such plans.

(July 26, 1947, ch. 343, title I, § 119, as added Pub. L. 108–458, title I, § 1021, Dec. 17, 2004, 118 Stat. 3672; amended Pub. L. 111–259, title VIII, § 804(5), Oct. 7, 2010, 124 Stat. 2747.)

CODIFICATION

Section was formerly classified to section 404*o* of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (c)(2)(B). Pub. L. 111–259 substituted ''subsection (i)'' for ''subsection (h)''.

EFFECTIVE DATE

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

STRATEGY FOR COUNTERTERRORIST TRAVEL INTELLIGENCE

Pub. L. 108–458, title VII, § 7201(b), Dec. 17, 2004, 118 Stat. 3809, directed the Director of the National Counterterrorism Center, not later than 1 year after Dec. 17, 2004, to submit to Congress unclassified and classified versions of a strategy, to be developed in coordination with all relevant Federal agencies, for combining terrorist travel intelligence, operations, and law

enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally.

EXECUTIVE ORDER NO. 13354

Ex. Ord. No. 13354, Aug. 27, 2004, 69 F.R. 53589, which established a National Counterterrorism Center, was revoked by Ex. Ord. No. 12333, § 3.6, Dec. 4, 1981, 46 F.R. 59954, as amended by Ex. Ord. No. 13470, § 4(j), July 30, 2008, 73 F.R. 45341, set out as a note under section 3001 of this title.

§ 3057. National Counter Proliferation Center

(a) Establishment

(1) The President shall establish a National Counter Proliferation Center, taking into account all appropriate government tools to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(2) The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

(3) The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.

(b) Missions and objectives

In establishing the National Counter Proliferation Center, the President shall address the following missions and objectives to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies:

(1) Establishing a primary organization within the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States pertaining to proliferation.

(2) Ensuring that appropriate agencies have full access to and receive all-source intelligence support needed to execute their counter proliferation plans or activities, and perform independent, alternative analyses.

(3) Establishing a central repository on known and suspected proliferation activities, including the goals, strategies, capabilities, networks, and any individuals, groups, or entities engaged in proliferation.

(4) Disseminating proliferation information, including proliferation threats and analyses, to the President, to the appropriate departments and agencies, and to the appropriate committees of Congress.

(5) Conducting net assessments and warnings about the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(6) Coordinating counter proliferation plans and activities of the various departments and agencies of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(7) Conducting strategic operational counter proliferation planning for the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(c) National security waiver

The President may waive the requirements of this section, and any parts thereof, if the President determines that such requirements do not materially improve the ability of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies. Such waiver shall be made in writing to Congress and shall include a description of how the missions and objectives in subsection (b) of this section are being met.

(d) Report to Congress

(1) Not later than nine months after the implementation of this chapter, the President shall submit to Congress, in classified form if necessary, the findings and recommendations of the President's Commission on Weapons of Mass Destruction established by Executive Order in February 2004, together with the views of the President regarding the establishment of a National Counter Proliferation Center.

(2) If the President decides not to exercise the waiver authority granted by subsection (c) of this section, the President shall submit to Congress from time to time updates and plans regarding the establishment of a National Counter Proliferation Center.

(e) Sense of Congress

It is the sense of Congress that a central feature of counter proliferation activities, consistent with the President's Proliferation Security Initiative, should include the physical interdiction, by air, sea, or land, of weapons of mass destruction, their delivery systems, and related materials and technologies, and enhanced law enforcement activities to identify and disrupt proliferation networks, activities, organizations, and persons.

(July 26, 1947, ch. 343, title I, § 119A, as added Pub. L. 108–458, title I, § 1022, Dec. 17, 2004, 118 Stat. 3675; amended Pub. L. 111–259, title IV, § 407(a), Oct. 7, 2010, 124 Stat. 2721.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original "this Act", meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

The Executive Order in February 2004 establishing the President's Commission on Weapons of Mass Destruction, referred to in subsec. (d)(1), is Ex. Ord. No. 13328, Feb. 6, 2004, 69 F.R. 6901, which was revoked by Ex. Ord. No. 13385, § 3(a), Sept. 29, 2005, 70 F.R. 57990, and was formerly set out as a note under section 2301 of this title.

CODIFICATION

Section was formerly classified to section 404*o*–1 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–259 designated existing provisions as par. (1), substituted "The" for "Not later than 18 months after December 17, 2004, the", and added pars. (2) and (3).

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of

the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

DELEGATION OF FUNCTIONS

Reporting functions of President under this section assigned to the Director of National Intelligence by section 3 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of Title 3, The President.

§ 3058. National Intelligence Centers

(a) Authority to establish

The Director of National Intelligence may establish one or more national intelligence centers to address intelligence priorities, including, but not limited to, regional issues.

(b) Resources of directors of centers

(1) The Director of National Intelligence shall ensure that the head of each national intelligence center under subsection (a) of this section has appropriate authority, direction, and control of such center, and of the personnel assigned to such center, to carry out the assigned mission of such center.

(2) The Director of National Intelligence shall ensure that each national intelligence center has appropriate personnel to accomplish effectively the mission of such center.

(c) Information sharing

The Director of National Intelligence shall, to the extent appropriate and practicable, ensure that each national intelligence center under subsection (a) of this section and the other elements of the intelligence community share information in order to facilitate the mission of such center.

(d) Mission of centers

Pursuant to the direction of the Director of National Intelligence, each national intelligence center under subsection (a) of this section may, in the area of intelligence responsibility assigned to such center—

(1) have primary responsibility for providing all-source analysis of intelligence based upon intelligence gathered both domestically and abroad;

(2) have primary responsibility for identifying and proposing to the Director of National Intelligence intelligence collection and analysis and production requirements; and

(3) perform such other duties as the Director of National Intelligence shall specify.

(e) Review and modification of centers

The Director of National Intelligence shall determine on a regular basis whether—

(1) the area of intelligence responsibility assigned to each national intelligence center under subsection (a) of this section continues to meet appropriate intelligence priorities; and

(2) the staffing and management of such center remains appropriate for the accomplishment of the mission of such center.

(f) Termination

The Director of National Intelligence may terminate any national intelligence center under subsection (a) of this section.

(g) Separate budget account

The Director of National Intelligence shall, as appropriate, include in the National Intelligence Program budget a separate line item for each national intelligence center under subsection (a) of this section.

(July 26, 1947, ch. 343, title I, § 119B, as added Pub. L. 108–458, title I, § 1023, Dec. 17, 2004, 118 Stat. 3676.)

CODIFICATION

Section was formerly classified to section 404*o*–2 of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§ 3071. National Security Agency voluntary separation

(a) Short title

This section may be cited as the ''National Security Agency Voluntary Separation Act''.

(b) Definitions

For purposes of this section—

(1) the term ''Director'' means the Director of the National Security Agency; and

(2) the term ''employee'' means an employee of the National Security Agency, serving under an appointment without time limitation, who has been currently employed by the National Security Agency for a continuous period of at least 12 months prior to the effective date of the program established under subsection (c) of this section, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5 or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(c) Establishment of program

Notwithstanding any other provision of law, the Director, in his sole discretion, may establish a program under which employees may, after October 1, 2000, be eligible for early retirement, offered separation pay to separate from service voluntarily, or both.

(d) Early retirement

An employee who—

(1) is at least 50 years of age and has completed 20 years of service; or

(2) has at least 25 years of service,

may, pursuant to regulations promulgated under this section, apply and be retired from the National Security Agency and receive benefits in accordance with chapter 83 or 84 of title 5 if the employee has not less than 10 years of service with the National Security Agency.

(e) Amount of separation pay and treatment for other purposes

(1) Amount

Separation pay shall be paid in a lump sum and shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5 if the employee were entitled to payment under such section; or

(B) $25,000.

(2) Treatment

Separation pay shall not—

(A) be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(B) be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5 based on any other separation.

(f) Reemployment restrictions

An employee who receives separation pay under such program may not be reemployed by the National Security Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the National Security Agency. If the employment is with an Executive agency (as defined by section 105 of title 5), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(g) Bar on certain employment

(1) Bar

An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the National Security Agency; or

(B) participate in any manner in the award, modification, or extension of any contract for property or services with the National Security Agency,

during the 12-month period beginning on the effective date of the employee's separation from service.

(2) Penalty

An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section multiplied by the proportion of the 12-month period during which the employee was in violation of the agreement.

(h) Limitations

Under this program, early retirement and separation pay may be offered only—

(1) with the prior approval of the Director;

(2) for the period specified by the Director; and

(3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(i) Regulations

Before an employee may be eligible for early retirement, separation pay, or both, under this section, the Director shall prescribe such regulations as may be necessary to carry out this section.

(j) Notification of exercise of authority

The Director may not make an offer of early retirement, separation pay, or both, pursuant to this section until 15 days after submitting to the congressional intelligence committees a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (h) of this section, and includes[1] the proposed regulations issued pursuant to subsection (i) of this section.

(k) Remittance of funds

In addition to any other payment that is required to be made under subchapter III of chapter 83 or chapter 84 of title 5, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, an amount equal to 15 percent of the final basic pay of each employee to whom a voluntary separation payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).

(July 26, 1947, ch. 343, title III, § 301, as added Pub. L. 106–567, title III, § 304(a), Dec. 27, 2000, 114

[1] So in original. Probably should be ''including''.

Stat. 2836; amended Pub. L. 107–306, title III, §353(b)(2)(A), title VIII, §841(b), Nov. 27, 2002, 116 Stat. 2402, 2431.)

REFERENCES IN TEXT

Section 4(a) of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (k), is section 4(a) of Pub. L. 103–226, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 409a of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 301 of act July 26, 1947, ch. 343, title III, 61 Stat. 507; Apr. 2, 1949, ch. 47, §2, 63 Stat. 31; Aug. 10, 1949, ch. 412, §10(a), 63 Stat. 585, was classified to sections 171b and 171c–1 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632.

AMENDMENTS

2002—Subsec. (j). Pub. L. 107–306, §841(b), substituted ''Notification of exercise of authority'' for ''Reporting requirements'' in subsec. heading and struck out ''(1) NOTIFICATION.—'' before ''The Director may'' and par. (2) which read as follows:

''(2) ANNUAL REPORT.—The Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate an annual report on the effectiveness and costs of carrying out this section.''

Pub. L. 107–306, §353(b)(2)(A), substituted ''congressional intelligence committees'' for ''Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate''.

§3072. Authority of Federal Bureau of Investigation to award personal services contracts

(a) In general

The Director of the Federal Bureau of Investigation may enter into personal services contracts if the personal services to be provided under such contracts directly support the intelligence or counterintelligence missions of the Federal Bureau of Investigation.

(b) Inapplicability of certain requirements

Contracts under subsection (a) of this section shall not be subject to the annuity offset requirements of sections 8344 and 8468 of title 5, the requirements of section 3109 of title 5, or any law or regulation requiring competitive contracting.

(c) Contract to be appropriate means of securing services

The Chief Contracting Officer of the Federal Bureau of Investigation shall ensure that each personal services contract entered into by the Director under this section is the appropriate means of securing the services to be provided under such contract.

(July 26, 1947, ch. 343, title III, §302, as added Pub. L. 108–177, title III, §311(a)(1), Dec. 13, 2003, 117 Stat. 2605.)

CODIFICATION

Section was formerly classified to section 409b of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 302 of act July 26, 1947, ch. 343, title III, 61 Stat. 507; Aug. 10, 1949, ch. 412, §10(b), 63 Stat. 585; Aug. 10, 1956, ch. 1041, §21, 70A Stat. 629, was classified to section 171c–2 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 87–651, title III, §307A, Sept. 7, 1962, 76 Stat. 526.

§3072a. Reports on exercise of authority

(1) Not later than one year after December 13, 2003, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate committees of Congress a report on the exercise of the authority in section 3072 of this title.

(2) Each report under this section shall include, for the one-year period ending on the date of such report, the following:

(A) The number of contracts entered into during the period.

(B) The cost of each such contract.

(C) The length of each such contract.

(D) The types of services to be provided under each such contract.

(E) The availability, if any, of United States Government personnel to perform functions similar to the services to be provided under each such contract.

(F) The efforts of the Federal Bureau of Investigation to fill available personnel vacancies, or request additional personnel positions, in areas relating to the intelligence or counterintelligence mission of the Bureau.

(3) Each report under this section shall be submitted in unclassified form, but may include a classified annex.

(4) In this section—

(A) for purposes of the submittal of the classified annex to any report under this section, the term ''appropriate committees of Congress'' means—

(i) the Select Committee on Intelligence of the Senate; and

(ii) the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) for purposes of the submittal of the unclassified portion of any report under this section, the term ''appropriate committees of Congress'' means—

(i) the committees specified in subparagraph (A);

(ii) the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate; and

(iii) the Committees on Appropriations, Government Reform and Oversight, and the Judiciary of the House of Representatives.

(Pub. L. 108–177, title III, §311(b), Dec. 13, 2003, 117 Stat. 2605.)

CODIFICATION

Section was formerly classified to section 409b–1 of this title prior to editorial reclassification and renumbering as this section.

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3073. Advisory committees; appointment; compensation of part-time personnel; applicability of other laws

(a) The Director of the Office of Defense Mobilization, the Director of National Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this chapter, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of National Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS–18 of the General Schedule established by section 5332 of title 5, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 203, 205, or 207 of title 18, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

(July 26, 1947, ch. 343, title III, § 303, 61 Stat. 507; Aug. 10, 1949, ch. 412, § 10(c), 63 Stat. 585; Sept. 3, 1954, ch. 1263, § 8, 68 Stat. 1228; Aug. 10, 1956, ch. 1041, § 53(b), 70A Stat. 676, 684; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Pub. L. 90–608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§ 1–103, 4–102, July 20, 1979, 44 F.R. 43239; Pub. L. 97–89, title V, § 504, Dec. 4, 1981, 95 Stat. 1153; Pub. L. 100–453, title V, § 503, Sept. 29, 1988, 102 Stat. 1910; Pub. L. 108–458, title I, § 1071(a)(1)(U), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 405 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

1988—Subsec. (a). Pub. L. 100–453 substituted ''Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other'' for ''Other'' in last sentence.

1981—Subsec. (a). Pub. L. 97–89, § 504(a), substituted ''at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS–18 of the General Schedule established by section 5332 of title 5'' for ''at a rate not to exceed $50 for each day of service''.

Subsec. (b). Pub. L. 97–89, § 504(b), substituted ''section 203, 205, or 207 of title 18'' for ''section 281, 283, or 284 of title 18''.

1956—Subsec. (a). Act Aug. 10, 1956, struck out ''Secretary of Defense, the'' after ''The''.

1954—Act Sept. 3, 1954, amended section generally, substituting the ''Director of the Office of Defense Mobilization'' for ''Chairman of the National Security Resources Board'' in subsec. (a), and substituting ''sections 281, 283, or 284 of title 18'' for ''sections 198 or 203 of title 18 or section 119(e) of title 41''.

1949—Subsec. (a). Act Aug. 10, 1949, inserted reference to National Security Council, and increased per diem payable to consultants from $35 to $50.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

For abolition of Office of Defense Mobilization and its Director and transfers and delegations of their functions to Office of Emergency Planning, Office of Emergency Preparedness, President, Federal Preparedness Agency, Federal Emergency Management Agency, and Secretary of Homeland Security, see Transfer of Functions notes set out under section 3042 of this title.

National Security Council transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1067. See note set out under section 3021 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-

year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

ADVISORY COMMITTEE MEMBERS AND PERSONNEL; PER DIEM COMPENSATION

Act June 24, 1948, ch. 632, 62 Stat. 648, which related to authority of former Chairman of National Security Resources Board to appoint advisory committee members and part-time advisory personnel at rates up to $50 per day, was superseded by section 3073(a) of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3073a. Reporting of certain employment activities by former intelligence officers and employees

(a) In general

The head of each element of the intelligence community shall issue regulations requiring each employee of such element occupying a covered position to sign a written agreement requiring the regular reporting of covered employment to the head of such element.

(b) Agreement elements

The regulations required under subsection (a) shall provide that an agreement contain provisions requiring each employee occupying a covered position to, during the two-year period beginning on the date on which such employee ceases to occupy such covered position—

(1) report covered employment to the head of the element of the intelligence community that employed such employee in such covered position upon accepting such covered employment; and

(2) annually (or more frequently if the head of such element considers it appropriate) report covered employment to the head of such element.

(c) Definitions

In this section:

(1) Covered employment

The term ''covered employment'' means direct employment by, representation of, or the provision of advice relating to national security to the government of a foreign country or any person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized, in whole or in major part, by any government of a foreign country.

(2) Covered position

The term ''covered position'' means a position within an element of the intelligence community that, based on the level of access of a person occupying such position to information regarding sensitive intelligence sources or methods or other exceptionally sensitive matters, the head of such element determines should be subject to the requirements of this section.

(3) Government of a foreign country

The term ''government of a foreign country'' has the meaning given the term in section 611(e) of title 22.

(July 26, 1947, ch. 343, title III, § 304, as added Pub. L. 113–293, title III, § 305(a), Dec. 19, 2014, 128 Stat. 3995.)

PRIOR PROVISIONS

A prior section 304 of act July 26, 1947, ch. 343, title III, 61 Stat. 508, was classified to section 171k of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632.

REGULATIONS AND CERTIFICATION

Pub. L. 113–293, title III, § 305(b), Dec. 19, 2014, 128 Stat. 3996, provided that:

''(1) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act [Dec. 19, 2014], the head of each element of the intelligence community shall issue the regulations required under section 304 of the National Security Act of 1947 [50 U.S.C. 3073a], as added by subsection (a) of this section.

''(2) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees—

''(A) a certification that each head of an element of the intelligence community has prescribed the regulations required under section 304 of the National Security Act of 1947, as added by subsection (a) of this section; or

''(B) if the Director is unable to submit the certification described under subparagraph (A), an explanation as to why the Director is unable to submit such certification, including a designation of which heads of an element of the intelligence community have prescribed the regulations required under such section 304 and which have not.''

[For definitions of terms used in section 305(b) of Pub. L. 113–293, set out above, see section 2 of Pub. L. 113–293, set out as a note under section 3003 of this title.]

§ 3074. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this chapter (other than the provisions and purposes of sections 3023, 3025, 3035, 3038 of this title and subchapters III, IV, and V).

(July 26, 1947, ch. 343, title III, § 307, 61 Stat. 509; Pub. L. 103–178, title III, § 309, Dec. 3, 1993, 107 Stat. 2036.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 411 of this title prior to editorial reclassification and renumbering as this section, and to section 171m of Title 5 prior to the general revision and enactment of Title 5, Govern-

ment Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1993—Pub. L. 103–178 inserted exception relating to sections 3023, 3025, 3035, and 3038 of this title and subchapters III, IV, and V.

§ 3075. "Function" and "Department of Defense" defined

(a) As used in this Act, the term ''function'' includes functions, powers, and duties.

(b) As used in this Act, the term ''Department of Defense'' shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.

(July 26, 1947, ch. 343, title III, § 308, 61 Stat. 509; Aug. 10, 1949, ch. 412, § 12(e), 63 Stat. 591.)

PARTIAL REPEAL

Pub. L. 87–651, title III, § 307, Sept. 7, 1962, 76 Stat. 526, repealed subsection (a) of this section less its applicability to sections 3002, 3021, 3023, 3042, and 3073 of this title.

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

Title II of this Act, referred to in subsec. (b), means title II of the National Security Act of 1947, act July 26, 1947, ch. 343, 61 Stat. 499. Section 201(d) of title II was formerly classified to section 408 of this title prior to editorial reclassification and renumbering as section 3005 of this title. Sections 205(c), 206(a), and 207(c) of title II were formerly classified to section 409 of this title prior to editorial reclassification and renumbering as section 3004 of this title. For complete classification of title II to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 410 of this title prior to editorial reclassification and renumbering as this section, and to section 171n of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1949—Subsec. (b). Act Aug. 10, 1949, substituted definition of ''Department of Defense'' for definition of ''budget program''.

§ 3076. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(July 26, 1947, ch. 343, title III, § 309, 61 Stat. 509.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified as a note under section 401 of this title prior to editorial reclassification as this section.

§ 3077. Effective date

(a) The first sentence of section 202(a),[1] this section, and sections 3001, 3002, 3074, 3075, and 3076 of this title shall take effect July 26, 1947.

(b) Except as provided in subsection (a), the provisions of this chapter shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after July 26, 1947.

(July 26, 1947, ch. 343, title III, § 310, 61 Stat. 509.)

REFERENCES IN TEXT

The first sentence of section 202(a), referred to in subsec. (a), means the first sentence of section 202(a) of act July 26, 1947, ch. 343, which was classified to section 171a of former Title 5, Executive Departments and Government Officers and Employees, prior to the enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified as a note under section 401 of this title prior to editorial reclassification as this section.

SUBCHAPTER III—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

§ 3091. General congressional oversight provisions

(a) Reports to congressional committees of intelligence activities and anticipated activities

(1) The President shall ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this subchapter.

(2) Nothing in this subchapter shall be construed as requiring the approval of the congressional intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.

(b) Reports concerning illegal intelligence activities

The President shall ensure that any illegal intelligence activity is reported promptly to the congressional intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

(c) Procedures for reporting information

The President and the congressional intelligence committees shall each establish such written procedures as may be necessary to carry out the provisions of this subchapter.

(d) Procedures to protect from unauthorized disclosure

The House of Representatives and the Senate shall each establish, by rule or resolution of

[1] See References in Text note below.

such House, procedures to protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the congressional intelligence committees or to Members of Congress under this subchapter. Such procedures shall be established in consultation with the Director of National Intelligence. In accordance with such procedures, each of the congressional intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

(e) Construction of authority conferred

Nothing in this chapter shall be construed as authority to withhold information from the congressional intelligence committees on the grounds that providing the information to the congressional intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

(f) "Intelligence activities" defined

As used in this section, the term ''intelligence activities'' includes covert actions as defined in section 3093(e) of this title, and includes financial intelligence activities.

(July 26, 1947, ch. 343, title V, § 501, as added Pub. L. 102–88, title VI, § 602(a)(2), Aug. 14, 1991, 105 Stat. 441; amended Pub. L. 107–306, title III, §§ 342(b), 353(b)(3)(A), (7), Nov. 27, 2002, 116 Stat. 2399, 2402; Pub. L. 108–458, title I, § 1071(a)(1)(V), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 111–259, title III, § 331(a), Oct. 7, 2010, 124 Stat. 2685.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 413 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 501 of act July 26, 1947, ch. 343, title V, as added Pub. L. 96–450, title IV, § 407(b)(1), Oct. 14, 1980, 94 Stat. 1981, related to congressional oversight of intelligence activities, prior to repeal by Pub. L. 102–88, § 602(a)(2).

AMENDMENTS

2010—Subsec. (c). Pub. L. 111–259 substituted ''such written procedures'' for ''such procedures''.

2004—Subsec. (d). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsec. (a). Pub. L. 107–306, § 353(b)(3)(A), substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

Subsec. (a)(2), (3). Pub. L. 107–306, § 353(b)(7), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''As used in this subchapter, the term 'congressional intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''

Subsecs. (b) to (e). Pub. L. 107–306, § 353(b)(3)(A), substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

Subsec. (f). Pub. L. 107–306, § 342(b), inserted '', and includes financial intelligence activities'' before period at end.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3092. Reporting of intelligence activities other than covert actions

(a) In general

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 3093(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the congressional intelligence committees any information or material concerning intelligence activities (including the legal basis under which the intelligence activity is being or was conducted), other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(b) Form and contents of certain reports

Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the congressional intelligence committees for purposes of subsection (a)(1) of this section shall be in writing, and shall contain the following:

(1) A concise statement of any facts pertinent to such report.

(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

(c) Standards and procedures for certain reports

The Director of National Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a) of this section, shall establish standards and

procedures applicable to reports covered by subsection (b) of this section.

(July 26, 1947, ch. 343, title V, § 502, as added Pub. L. 102–88, title VI, § 602(a)(2), Aug. 14, 1991, 105 Stat. 442; amended Pub. L. 107–108, title III, § 305, Dec. 28, 2001, 115 Stat. 1398; Pub. L. 107–306, title III, § 353(b)(3)(B), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–458, title I, § 1071(a)(1)(W), (X), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 111–259, title III, § 331(b), Oct. 7, 2010, 124 Stat. 2685.)

CODIFICATION

Section was formerly classified to section 413a of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 502 of act July 26, 1947, ch. 343, was renumbered section 504 and is classified to section 3094 of this title.

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–259 inserted ''(including the legal basis under which the intelligence activity is being or was conducted)'' after ''concerning intelligence activities''.

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(W), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (c). Pub. L. 108–458, § 1071(a)(1)(X), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsecs. (a), (b). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

2001—Pub. L. 107–108 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

FURNISHING OF INTELLIGENCE INFORMATION TO SENATE AND HOUSE SELECT COMMITTEES ON INTELLIGENCE

Pub. L. 102–88, title IV, § 405, Aug. 14, 1991, 105 Stat. 434, provided that:

''(a) FURNISHING OF SPECIFIC INFORMATION.—In accordance with title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.], the head of any department or agency of the United States involved in any intelligence activities which may pertain to United States military personnel listed as prisoner, missing, or unaccounted for in military actions shall furnish any information or documents in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate.

''(b) ACCESS BY COMMITTEES AND MEMBERS OF CONGRESS.—In accordance with Senate Resolution 400, Ninety-Fourth Congress, and House Resolution 658, Ninety-Fifth Congress, the committees named in subsection (a) shall, upon request and under such regulations as the committees have prescribed to protect the classification of such information, make any information described in subsection (a) available to any other committee or any other Member of Congress and appropriately cleared staff.''

§ 3093. Presidential approval and reporting of covert actions

(a) Presidential findings

The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

(2) Except as permitted by paragraph (1), a finding may not authorize or sanction a covert action, or any aspect of any such action, which already has occurred.

(3) Each finding shall specify each department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such action. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

(4) Each finding shall specify whether it is contemplated that any third party which is not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

(b) Reports to congressional intelligence committees; production of information

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

(1) shall keep the congressional intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on

behalf of, any department, agency, or entity of the United States Government, including significant failures; and

(2) shall furnish to the congressional intelligence committees any information or material concerning covert actions (including the legal basis under which the covert action is being or was conducted) which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(c) Timing of reports; access to finding

(1) The President shall ensure that any finding approved pursuant to subsection (a) of this section shall be reported in writing to the congressional intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

(2) If the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.

(3) Whenever a finding is not reported pursuant to paragraph (1) or (2) of this section,[1] the President shall fully inform the congressional intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each congressional intelligence committee.

(5)(A) When access to a finding, or a notification provided under subsection (d)(1), is limited to the Members of Congress specified in paragraph (2), a written statement of the reasons for limiting such access shall also be provided.

(B) Not later than 180 days after a statement of reasons is submitted in accordance with subparagraph (A) or this subparagraph, the President shall ensure that—

(i) all members of the congressional intelligence committees are provided access to the finding or notification; or

(ii) a statement of reasons that it is essential to continue to limit access to such finding or such notification to meet extraordinary circumstances affecting vital interests of the United States is submitted to the Members of Congress specified in paragraph (2).

(d) Changes in previously approved actions

(1) The President shall ensure that the congressional intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2) of this section, are notified in writing of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c) of this section.

(2) In determining whether an activity constitutes a significant undertaking for purposes of paragraph (1), the President shall consider whether the activity—

(A) involves significant risk of loss of life;

(B) requires an expansion of existing authorities, including authorities relating to research, development, or operations;

(C) results in the expenditure of significant funds or other resources;

(D) requires notification under section 3094 of this title;

(E) gives rise to a significant risk of disclosing intelligence sources or methods; or

(F) presents a reasonably foreseeable risk of serious damage to the diplomatic relations of the United States if such activity were disclosed without authorization.

(e) "Covert action" defined

As used in this subchapter, the term ''covert action'' means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) traditional diplomatic or military activities or routine support to such activities;

(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(f) Prohibition on covert actions intended to influence United States political processes, etc.

No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

(g) Notice and general description where access to finding or notification limited; maintenance of records and written statements

(1) In any case where access to a finding reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall notify all members of such committee that such finding or such notification has been provided only to the members specified in subsection (c)(2).

(2) In any case where access to a finding reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall provide to all

[1] So in original. Probably should be ''subsection,''.

members of such committee a general description regarding the finding or notification, as applicable, consistent with the reasons for not yet fully informing all members of such committee.

(3) The President shall maintain—

(A) a record of the members of Congress to whom a finding is reported under subsection (c) or notification is provided under subsection (d)(1) and the date on which each member of Congress receives such finding or notification; and

(B) each written statement provided under subsection (c)(5).

(h) Plan to respond to unauthorized public disclosure of covert action

For each type of activity undertaken as part of a covert action, the President shall establish in writing a plan to respond to the unauthorized public disclosure of that type of activity.

(July 26, 1947, ch. 343, title V, § 503, as added Pub. L. 102–88, title VI, § 602(a)(2), Aug. 14, 1991, 105 Stat. 442; amended Pub. L. 107–306, title III, § 353(b)(3)(C), (8), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–458, title I, § 1071(a)(1)(Y), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 111–259, title III, § 331(c), Oct. 7, 2010, 124 Stat. 2685; Pub. L. 113–126, title III, § 308, July 7, 2014, 128 Stat. 1397.)

CODIFICATION

Section was formerly classified to section 413b of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 503 of act July 26, 1947, ch. 343, was renumbered section 505 and is classified to section 3095 of this title.

AMENDMENTS

2014—Subsec. (h). Pub. L. 113–126 added subsec. (h).

2010—Subsec. (b)(2). Pub. L. 111–259, § 331(c)(1), inserted ''(including the legal basis under which the covert action is being or was conducted)'' before ''which is in the possession''.

Subsec. (c)(1). Pub. L. 111–259, § 331(c)(2)(A), inserted ''in writing'' after ''be reported''.

Subsec. (c)(4). Pub. L. 111–259, § 331(c)(2)(B), redesignated second sentence of par. (4) as (5)(A).

Subsec. (c)(5)(A). Pub. L. 111–259, § 331(c)(2)(C)(i), inserted '', or a notification provided under subsection (d)(1),'' before ''is limited'' and ''written'' before ''statement''.

Pub. L. 111–259, § 331(c)(2)(B), redesignated second sentence of par. (4) as (5)(A).

Subsec. (c)(5)(B). Pub. L. 111–259, § 331(c)(2)(C)(ii), added subpar. (B).

Subsec. (d). Pub. L. 111–259, § 331(c)(3), designated existing provisions as par. (1), inserted ''in writing'' after ''notified'', and added par. (2).

Subsec. (g). Pub. L. 111–259, § 331(c)(4), added subsec. (g).

2004—Subsec. (b). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

2002—Subsecs. (b), (c)(1) to (3). Pub. L. 107–306, § 353(b)(3)(C), substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

Subsec. (c)(4). Pub. L. 107–306, § 353(b)(8), substituted ''congressional intelligence committee'' for ''intelligence committee''.

Subsec. (d). Pub. L. 107–306, § 353(b)(3)(C), substituted ''congressional intelligence committees'' for ''intelligence committees''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3094. Funding of intelligence activities

(a) Obligations and expenditures for intelligence or intelligence-related activity; prerequisites

Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(1) those funds were specifically authorized by the Congress for use for such activities; or

(2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 3093 of this title concerning any significant anticipated intelligence activity, the Director of the Central Intelligence Agency has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(3) in the case of funds specifically authorized by the Congress for a different activity—

(A) the activity to be funded is a higher priority intelligence or intelligence-related activity;

(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and

(C) the Director of National Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity;

(4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31.

(b) Activities denied funding by Congress

Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

(c) Presidential finding required for expenditure of funds on covert action

No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 3093(e) of this title, unless and until a Presidential finding required by subsection (a) of section 3093 of this title has been signed or otherwise issued in accordance with that subsection.

(d) Report to Congressional committees required for expenditure of nonappropriated funds for intelligence activity

(1) Except as otherwise specifically provided by law, funds available to an intelligence agency

that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify—

(A) the types of activities for which nonappropriated funds may be expended; and

(B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.

(2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the congressional intelligence committees and, as appropriate, the Director of National Intelligence or the Secretary of Defense.

(e) Definitions

As used in this section—

(1) the term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the term ''appropriate congressional committees'' means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and

(3) the term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

(July 26, 1947, ch. 343, title V, § 504, formerly § 502, as added Pub. L. 99–169, title IV, § 401(a), Dec. 4, 1985, 99 Stat. 1004; renumbered § 504 and amended Pub. L. 102–88, title VI, §§ 602(a)(1), (c)(1), 603, Aug. 14, 1991, 105 Stat. 441, 444; Pub. L. 107–306, title III, § 353(b)(3)(D), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–458, title I, § 1071(a)(1)(Z), (AA), (5), Dec. 17, 2004, 118 Stat. 3689, 3690; Pub. L. 111–259, title III, § 362, Oct. 7, 2010, 124 Stat. 2701.)

CODIFICATION

Section was formerly classified to section 414 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2010—Subsec. (a)(3)(B). Pub. L. 111–259 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the need for funds for such activity is based on unforseen requirements; and''.

2004—Subsec. (a)(2). Pub. L. 108–458, § 1071(a)(5), substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

Subsec. (a)(3)(C). Pub. L. 108–458, § 1071(a)(1)(Z), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (d)(2). Pub. L. 108–458, § 1071(a)(1)(AA), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsec. (d)(2). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''intelligence committees''.

1991—Subsec. (a)(2). Pub. L. 102–88, § 602(c)(1), substituted ''section 413b'' for ''section 413''.

Subsecs. (c) to (e). Pub. L. 102–88, § 603, added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET

Pub. L. 102–496, title III, § 303, Oct. 24, 1992, 106 Stat. 3183, provided that: ''It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.'' Similar provisions were contained in the following prior appropriation act: Pub. L. 102–183, title VII, § 701, Dec. 4, 1991, 105 Stat. 1270.

ENHANCED SECURITY COUNTERMEASURES CAPABILITIES; APPLICATION OF SECTION

Pub. L. 99–169, title IV, § 401(c), Dec. 4, 1985, 99 Stat. 1006, provided that the amendment made by section 401(a) of Pub. L. 99–169, enacting this section, would not apply with respect to funds appropriated to the Director of Central Intelligence under the heading ''ENHANCED SECURITY COUNTERMEASURES CAPABILITIES'' in the Supplemental Appropriations Act, 1985, Pub. L. 99–88, Aug. 15, 1985, 99 Stat. 311.

§ 3095. Notice to Congress of certain transfers of defense articles and defense services

(a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services, exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this subchapter.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2301 et seq.], the Arms Export Control Act [22 U.S.C. 2751 et seq.], title 10 (including a law enacted pursuant to section 7307(a) of that title), or chap-

ters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms ''defense articles'' and ''defense services'' mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act [22 U.S.C. 2778] (22 CFR part 121);

(3) the term ''transfer'' means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term ''value'' means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

(July 26, 1947, ch. 343, title V, § 505, formerly § 503, as added Pub. L. 99–569, title VI, § 602(a), Oct. 27, 1986, 100 Stat. 3203; renumbered § 505 and amended Pub. L. 102–88, title VI, §§ 602(a)(1), (c)(2), 604, Aug. 14, 1991, 105 Stat. 441, 444, 445; Pub. L. 103–160, div. A, title VIII, § 828(d)(1), Nov. 30, 1993, 107 Stat. 1715.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(B)(i), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part II of the Act is classified generally to subchapter II (§ 2301 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to subchapter II to exclude parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of Title 22, and sections 2348c and 2349aa–5 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2)(B)(i), is Pub. L. 90–269, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

CODIFICATION

Section was formerly classified to section 415 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

In subsec. (a)(2)(B)(i), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1993—Subsec. (a)(2)(B)(i). Pub. L. 103–160 substituted ''section 7307(a)'' for ''section 7307(b)(1)''.

1991—Subsec. (a)(1). Pub. L. 102–88 inserted '', or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,'' after ''service'' and substituted ''this subchapter'' for ''section 413 of this title''.

§ 3096. Specificity of National Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence

(a) In general

The budget justification materials submitted to Congress in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31 shall set forth separately the aggregate amount requested for that fiscal year for the National Intelligence Program for each of the following:

(1) Counterterrorism.

(2) Counterproliferation.

(3) Counternarcotics.

(4) Counterintelligence.

(b) Election of classified or unclassified form

Amounts set forth under subsection (a) of this section may be set forth in unclassified form or classified form, at the election of the Director of National Intelligence.

(July 26, 1947, ch. 343, title V, § 506, as added Pub. L. 107–306, title III, § 311(a), Nov. 27, 2002, 116 Stat. 2390; amended Pub. L. 108–458, title I, § 1074(b)(1)(A), Dec. 17, 2004, 118 Stat. 3694; Pub. L. 112–87, title V, § 505(2), Jan. 3, 2012, 125 Stat. 1897.)

CODIFICATION

Section was formerly classified to section 415a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–87 substituted ''Director of National Intelligence.'' for ''Director of Central Intelligence.''

2004—Pub. L. 108–458, § 1074(b)(1)(A)(ii), struck out ''Foreign'' before ''Intelligence'' in section catchline.

Subsec. (a). Pub. L. 108–458, § 1074(b)(1)(A)(i), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3097. Budget treatment of costs of acquisition of major systems by the intelligence community

(a) Independent cost estimates

(1) The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

(2)(A) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the major system in each fiscal year of the proposed period of development, procurement, and operation of the major system.

(B) For major system acquisitions requiring a service or capability from another acquisition or program to deliver the end-to-end functionality for the intelligence community end users, independent cost estimates shall include, to the maximum extent practicable, all estimated costs across all pertinent elements of the intelligence community. For collection programs, such cost estimates shall include the cost of new analyst training, new hardware and software for data exploitation and analysis, and any unique or additional costs for data processing, storing, and power, space, and cooling across the life cycle of the program. If such costs for processing, exploitation, dissemination, and storage are scheduled to be executed in other elements of the intelligence community, the independent cost estimate shall identify and annotate such costs for such other elements accordingly.

(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(B) In the case of a program of the intelligence community for which an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before December 13, 2003, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed $500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for such major system.

(4) The independent cost estimate for a major system shall be updated upon—

(A) the completion of any preliminary design review associated with the major system;

(B) any significant modification to the anticipated design of the major system; or

(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under that paragraph.

(b) Preparation of independent cost estimates

(1) The Director shall establish within the Office of the Director of National Intelligence for Community Management an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a) of this section, unless a designation is made under paragraph (2).

(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) of this section be prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2434(b)(1)(A) of title 10.

(c) Utilization in budgets of President

(1) If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the President shall, subject to paragraph (2), request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

(2) If the amount of appropriations requested in the budget of the President for the development or procurement of a major system is less than the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget, the President shall include in the budget justification materials submitted to Congress in support of such budget—

(A) an explanation for the difference between the amount of appropriations requested and the amount of appropriations identified in the most current independent cost estimate;

(B) a description of the importance of the major system to the national security;

(C) an assessment of the consequences for the funding of all programs of the National Intelligence Program in future fiscal years if the most current independent cost estimate for the major system is accurate and additional appropriations are required in future fiscal years to ensure the continued development or procurement of the major system, including the consequences of such funding shortfalls on the major system and all other programs of the National Intelligence Program; and

(D) such other information on the funding of the major system as the President considers appropriate.

(d) Inclusion of estimates in budget justification materials

The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

(e) Definitions

In this section:

(1) The term ''budget of the President'' means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31.

(2)(A) The term ''independent cost estimate'' means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the development, acquisition, procurement, operation, and sustainment of a major system across its proposed life cycle, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

(B) In accordance with subsection (a)(2)(B), each independent cost estimate shall include all costs required across elements of the intelligence community to develop, acquire, procure, operate, and sustain the system to provide the end-to-end intelligence functionality of the system, including—

(i) for collection programs, the cost of new analyst training, new hardware and software for data exploitation and analysis, and any unique or additional costs for data processing, storing, and power, space, and cooling across the life cycle of the program; and

(ii) costs for processing, exploitation, dissemination, and storage scheduled to be executed in other elements of the intelligence community.

(3) The term ''major system'' means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding $500,000,000 (based on fiscal year 2010 constant dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.

(July 26, 1947, ch. 343, title V, § 506A, as added Pub. L. 108–177, title III, § 312(b)(1), Dec. 13, 2003, 117 Stat. 2607; amended Pub. L. 108–458, title I, §§ 1071(a)(1)(BB), 1072(a)(6), Dec. 17, 2004, 118 Stat. 3689, 3692; Pub. L. 111–259, title III, § 321(b), Oct. 7, 2010, 124 Stat. 2669; Pub. L. 112–87, title III, § 306(a), title V, § 505(3), Jan. 3, 2012, 125 Stat. 1881, 1897.)

CODIFICATION

Section was formerly classified to section 415a–1 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2012—Subsec. (a)(2). Pub. L. 112–87, § 306(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(2)(C). Pub. L. 112–87, § 505(3), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program'' in two places.

Subsec. (e)(2). Pub. L. 112–87, § 306(a)(2), designated existing provisions as subpar. (A), substituted ''associated with the development, acquisition, procurement, operation, and sustainment of a major system across its proposed life cycle,'' for ''associated with the acquisition of a major system,'', and added subpar. (B).

2010—Subsec. (e)(3). Pub. L. 111–259 substituted ''(based on fiscal year 2010 constant dollars)'' for ''(in current fiscal year dollars)''.

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(BB), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1072(a)(6), substituted ''Office of the Director of National Intelligence'' for ''Office of the Deputy Director of Central Intelligence''.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–87, title III, § 306(b), Jan. 3, 2012, 125 Stat. 1882, provided that: ''The amendments made by this section [amending this section] shall take effect on the date that is 180 days after the date of the enactment of this Act [Jan. 3, 2012].''

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE

Pub. L. 108–177, title III, § 312(c), Dec. 13, 2003, 117 Stat. 2609, provided that: ''The amendments made by subsection (b) [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 13, 2003].''

CONGRESSIONAL FINDINGS

Pub. L. 108–177, title III, § 312(a), Dec. 13, 2003, 117 Stat. 2606, provided that: ''Congress makes the following findings:

''(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the costs of acquisition of major systems by the intelligence community.

''(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

''(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

''(4) Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

''(5) Recognizing the benefits associated with independent cost estimates for the acquisition of major

systems, the Secretary of Defense has built upon the statutory requirement in section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

''(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.''

LIMITATIONS ON MAJOR SYSTEM PROCUREMENT, ACQUISITION, AND DEVELOPMENT

Pub. L. 108–177, title III, § 312(d), Dec. 13, 2003, 117 Stat. 2609, provided that:

''(1)(A) For each major system for which funds have been authorized for a fiscal year before fiscal year 2005, or for which funds are sought in the budget of the President for fiscal year 2005, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and for which no independent cost estimate has been provided to Congress, no contract, or option to contract, for the procurement or acquisition of such major system may be entered into, or option to contract be exercised, before the date of the enactment of an Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government.

''(B) Subparagraph (A) shall not affect any contract for procurement or acquisition that was entered into before the date of the enactment of this Act [Dec. 13, 2003].

''(2) Commencing as of the date of the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, no funds may be obligated or expended for the development or procurement of a major system until the President has complied with the requirements of section 506A of the National Security Act of 1947 (as added by subsection (b)) [50 U.S.C. 3097] with respect to such major system.

''(3) In this subsection, the terms 'independent cost estimate' and 'major system' have the meaning given such terms in subsection (e) of section 506A of the National Security Act of 1947 (as so added) [50 U.S.C. 3097(e)].''

§ 3098. Annual personnel level assessments for the intelligence community

(a) Requirement to provide

The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels for such element for the fiscal year following the fiscal year in which the assessment is submitted.

(b) Schedule

Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31.

(c) Contents

Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

(1) The budget submission for personnel costs for the upcoming fiscal year.

(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

(5) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions of the current fiscal year.

(6) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

(7) The best estimate of the number and costs of core contract personnel to be funded by the element for the upcoming fiscal year.

(8) The numerical and percentage increase or decrease of such costs of core contract personnel as compared to the best estimate of the costs of core contract personnel of the current fiscal year.

(9) The numerical and percentage increase or decrease of such number and such costs of core contract personnel as compared to the number and cost of core contract personnel during the prior 5 fiscal years.

(10) A justification for the requested personnel and core contract personnel levels.

(11) The best estimate of the number of intelligence collectors and analysts employed by each element of the intelligence community.

(12) The best estimate of the number of intelligence collectors and analysts contracted by each element of the intelligence community and a description of the functions performed by such contractors.

(13) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

(A) internal infrastructure to support the requested personnel and core contract personnel levels;

(B) training resources to support the requested personnel levels; and

(C) funding to support the administrative and operational activities of the requested personnel levels.

(July 26, 1947, ch. 343, title V, § 506B, as added Pub. L. 111–259, title III, § 305(a), Oct. 7, 2010, 124 Stat. 2659; amended Pub. L. 113–293, title III, § 327, Dec. 19, 2014, 128 Stat. 4006.)

CODIFICATION

Section was formerly classified to section 415a–4 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (c)(11). Pub. L. 113–293, § 327(1), struck out ''or contracted'' after ''employed''.

Subsec. (c)(12), (13). Pub. L. 113–293, § 327(2), (3), added par. (12) and redesignated former par. (12) as (13).

IMPLEMENTATION

Pub. L. 111–259, title III, § 305(b), Oct. 7, 2010, 124 Stat. 2661, provided that: ''The first assessment required to

be submitted under section 506B(b) of the National Security Act of 1947 [50 U.S.C. 3098(b)], as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.''

[For definition of ''congressional intelligence committees'' as used in section 305(b) of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a note under section 3003 of this title.]

§ 3099. Vulnerability assessments of major systems

(a) Initial vulnerability assessments

(1)(A) Except as provided in subparagraph (B), the Director of National Intelligence shall conduct and submit to the congressional intelligence committees an initial vulnerability assessment for each major system and its significant items of supply—

(i) except as provided in clause (ii), prior to the completion of Milestone B or an equivalent acquisition decision for the major system; or

(ii) prior to the date that is 1 year after October 7, 2010, in the case of a major system for which Milestone B or an equivalent acquisition decision—

(I) was completed prior to such date; or

(II) is completed on a date during the 180-day period following such date.

(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

(i) identify vulnerabilities;

(ii) define exploitation potential;

(iii) examine the system's potential effectiveness;

(iv) determine overall vulnerability; and

(v) make recommendations for risk reduction.

(2) If an initial vulnerability assessment for a major system is not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply on the date on which the congressional intelligence committees receive the initial vulnerability assessment.

(b) Subsequent vulnerability assessments

(1) The Director of National Intelligence shall, periodically throughout the procurement of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may, if appropriate, recertify the previous vulnerability assessment or may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in clauses (i) through (v) of subsection (a)(1)(C).

(c) Major system management

The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

(d) Congressional oversight

(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent periodic vulnerability assessments of a major system under subsection (b)(1) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

(e) Definitions

In this section:

(1) The term ''item of supply'' has the meaning given that term in section 4(10)[1] of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

(2) The term ''major contract'' means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of $40,000,000 and that is not a firm, fixed price contract.

(3) The term ''major system'' has the meaning given that term in section 3097(e) of this title.

(4) The term ''Milestone B'' means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

(5) The term ''vulnerability assessment'' means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.

(July 26, 1947, ch. 343, title V, § 506C, as added Pub. L. 111–259, title III, § 321(a)(1), Oct. 7, 2010, 124 Stat. 2667.)

REFERENCES IN TEXT

Section 4(10) of the Office of Federal Procurement Policy Act, referred to in subsec. (e)(1), which was clas-

[1] See References in Text note below.

sified to section 403(10) of former Title 41, Public Contracts, was repealed and reenacted as sections 108 and 115 of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

CODIFICATION

Section was formerly classified to section 415a–5 of this title prior to editorial reclassification and renumbering as this section.

§ 3100. Intelligence community business system transformation

(a) Limitation on obligation of funds

(1) Subject to paragraph (3), no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system transformation that will have a total cost in excess of $3,000,000 unless—

(A) the Director of the Office of Business Transformation of the Office of the Director of National Intelligence makes a certification described in paragraph (2) with respect to such intelligence community business system transformation; and

(B) such certification is approved by the board established under subsection (f).

(2) The certification described in this paragraph for an intelligence community business system transformation is a certification made by the Director of the Office of Business Transformation of the Office of the Director of National Intelligence that the intelligence community business system transformation—

(A) complies with the enterprise architecture under subsection (b) and such other policies and standards that the Director of National Intelligence considers appropriate; or

(B) is necessary—

(i) to achieve a critical national security capability or address a critical requirement; or

(ii) to prevent a significant adverse effect on a project that is needed to achieve an essential capability, taking into consideration any alternative solutions for preventing such adverse effect.

(3) With respect to a fiscal year after fiscal year 2010, the amount referred to in paragraph (1) in the matter preceding subparagraph (A) shall be equal to the sum of—

(A) the amount in effect under such paragraph (1) for the preceding fiscal year (determined after application of this paragraph), plus

(B) such amount multiplied by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of the previous fiscal year.

(b) Enterprise architecture for intelligence community business systems

(1) The Director of National Intelligence shall, acting through the board established under subsection (f), develop and implement an enterprise architecture to cover all intelligence community business systems, and the functions and activities supported by such business systems. The enterprise architecture shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable intelligence community business system solutions, consistent with applicable policies and procedures established by the Director of the Office of Management and Budget.

(2) The enterprise architecture under paragraph (1) shall include the following:

(A) An information infrastructure that will enable the intelligence community to—

(i) comply with all Federal accounting, financial management, and reporting requirements;

(ii) routinely produce timely, accurate, and reliable financial information for management purposes;

(iii) integrate budget, accounting, and program information and systems; and

(iv) provide for the measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

(B) Policies, procedures, data standards, and system interface requirements that apply uniformly throughout the intelligence community.

(c) Responsibilities for intelligence community business system transformation

The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, including review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of the business system transformation.

(d) Intelligence community business system investment review

(1) The Director of the Office of Business Transformation of the Office of the Director of National Intelligence shall establish and implement, not later than 60 days after October 7, 2010, an investment review process for the intelligence community business systems for which the Director of the Office of Business Transformation is responsible.

(2) The investment review process under paragraph (1) shall—

(A) meet the requirements of section 11312 of title 40; and

(B) specifically set forth the responsibilities of the Director of the Office of Business Transformation under such review process.

(3) The investment review process under paragraph (1) shall include the following elements:

(A) Review and approval by an investment review board (consisting of appropriate representatives of the intelligence community) of each intelligence community business system as an investment before the obligation of funds for such system.

(B) Periodic review, but not less often than annually, of every intelligence community business system investment.

(C) Thresholds for levels of review to ensure appropriate review of intelligence community business system investments depending on the scope, complexity, and cost of the system involved.

(D) Procedures for making certifications in accordance with the requirements of subsection (a)(2).

(e) Repealed. Pub. L. 112–277, title III, § 310(a)(3), Jan. 14, 2013, 126 Stat. 2475

(f) Intelligence community business system transformation governance board

(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the ''Board'').

(2) The Board shall—

(A) recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the intelligence community;

(B) review and approve any major update of—

(i) the enterprise architecture developed under subsection (b); and

(ii) any plans for an intelligence community business systems modernization;

(C) manage cross-domain integration consistent with such enterprise architecture;

(D) coordinate initiatives for intelligence community business system transformation to maximize benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an intelligence community business system transformation;

(E) ensure that funds are obligated for intelligence community business system transformation in a manner consistent with subsection (a); and

(F) carry out such other duties as the Director shall specify.

(g) Relation to annual registration requirements

Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

(h) Relationship to defense business enterprise architecture

Nothing in this section shall be construed to exempt funds authorized to be appropriated to the Department of Defense from the requirements of section 2222 of title 10 to the extent that such requirements are otherwise applicable.

(i) Relation to Clinger-Cohen Act

(1) Executive agency responsibilities in chapter 113 of title 40 for any intelligence community business system transformation shall be exercised jointly by—

(A) the Director of National Intelligence and the Chief Information Officer of the Intelligence Community; and

(B) the head of the executive agency that contains the element of the intelligence community involved and the chief information officer of that executive agency.

(2) The Director of National Intelligence and the head of the executive agency referred to in paragraph (1)(B) shall enter into a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.

(j) Reports

Not later than March 31 of each of the years 2011 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

(B) specific actions on the intelligence community business system transformations submitted for certification under such subsection;

(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2); and

(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

(k) Definitions

In this section:

(1) The term ''enterprise architecture'' has the meaning given that term in section 3601(4) of title 44.

(2) The terms ''information system'' and ''information technology'' have the meanings given those terms in section 11101 of title 40.

(3) The term ''intelligence community business system'' means an information system, including a national security system, that is operated by, for, or on behalf of an element of the intelligence community, including a financial system, mixed system, financial data feeder system, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

(4) The term ''intelligence community business system transformation'' means—

(A) the acquisition or development of a new intelligence community business system; or

(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

(5) The term ''national security system'' has the meaning given that term in section 3542[1] of title 44.

(6) The term ''Office of Business Transformation of the Office of the Director of Na-

[1] See References in Text note below.

tional Intelligence'' includes any successor office that assumes the functions of the Office of Business Transformation of the Office of the Director of National Intelligence as carried out by the Office of Business Transformation on October 7, 2010.

(July 26, 1947, ch. 343, title V, §506D, as added Pub. L. 111–259, title III, §322(a)(1), Oct. 7, 2010, 124 Stat. 2669; amended Pub. L. 112–277, title III, §310(a)(3), Jan. 14, 2013, 126 Stat. 2475; Pub. L. 113–126, title III, §329(b)(3), July 7, 2014, 128 Stat. 1406.)

REFERENCES IN TEXT

Section 8083 of the Department of Defense Appropriations Act, 2005, referred to in subsec. (g), is section 8083 of Pub. L. 108–287, title VIII, Aug. 5, 2004, 118 Stat. 989, which is not classified to the Code.

Section 3542 of title 44, referred to in subsec. (k)(5), was repealed by Pub. L. 113–283, §2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions defining ''national security system'' are now contained in section 3552 of title 44, as enacted by Pub. L. 113–283.

CODIFICATION

Section was formerly classified to section 415a–6 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (j). Pub. L. 113–126 substituted ''2014'' for ''2015'' in introductory provisions.

2013—Subsec. (e). Pub. L. 112–277 struck out subsec. (e) which required inclusion of certain budget information in the budget materials submitted to Congress for each fiscal year after fiscal year 2011.

IMPLEMENTATION

Pub. L. 111–259, title III, §322(b), Oct. 7, 2010, 124 Stat. 2673, provided that:

''(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act [Oct. 7, 2010], the Director of National Intelligence shall designate a chair and other members to serve on the board established under subsection (f) of such section 506D of the National Security Act of 1947 [50 U.S.C. 3100(f)] (as added by subsection (a)).

''(2) ENTERPRISE ARCHITECTURE.—

''(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D [50 U.S.C. 3100(b)] (as so added), including the initial Business Enterprise Architecture for business transformation, not later than 60 days after the enactment of this Act.

''(B) REQUIREMENT FOR IMPLEMENTATION PLAN.—In developing such an enterprise architecture, the Director shall develop an implementation plan for such enterprise architecture that includes the following:

''(i) An acquisition strategy for new systems that are expected to be needed to complete such enterprise architecture, including specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial resource needs.

''(ii) An identification of the intelligence community business systems in operation or planned as of the date that is 60 days after the enactment of this Act that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

''(iii) An identification of the intelligence community business systems in operation or planned as of such date, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

''(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than March 31, 2011.''

[For definitions of terms used in section 322(b) of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a note under section 3003 of this title.]

§3101. Reports on the acquisition of major systems

(a) Definitions

In this section:

(1) The term ''cost estimate''—

(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonably available information at the time the Director establishes the 2010 adjusted total acquisition cost for such system pursuant to subsection (h) or restructures such system pursuant to section 3102(c) of this title; and

(B) does not mean an ''independent cost estimate''.

(2) The term ''critical cost growth threshold'' means a percentage increase in the total acquisition cost for a major system of at least 25 percent over the total acquisition cost for the major system as shown in the current Baseline Estimate for the major system.

(3)(A) The term ''current Baseline Estimate'' means the projected total acquisition cost of a major system that is—

(i) approved by the Director, or a designee of the Director, at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system;

(ii) approved by the Director at the time such system is restructured pursuant to section 3102(c) of this title; or

(iii) the 2010 adjusted total acquisition cost determined pursuant to subsection (h).

(B) A current Baseline Estimate may be in the form of an independent cost estimate.

(4) Except as otherwise specifically provided, the term ''Director'' means the Director of National Intelligence.

(5) The term ''independent cost estimate'' has the meaning given that term in section 3097(e) of this title.

(6) The term ''major contract'' means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of $40,000,000 and that is not a firm, fixed price contract.

(7) The term ''major system'' has the meaning given that term in section 3097(e) of this title.

(8) The term ''Milestone B'' means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director.

(9) The term ''program manager'' means—

(A) the head of the element of the intelligence community that is responsible for the budget, cost, schedule, and performance of a major system; or

(B) in the case of a major system within the Office of the Director of National Intel-

ligence, the deputy who is responsible for the budget, cost, schedule, and performance of the major system.

(10) The term ''significant cost growth threshold'' means the percentage increase in the total acquisition cost for a major system of at least 15 percent over the total acquisition cost for such system as shown in the current Baseline Estimate for such system.

(11) The term ''total acquisition cost'' means the amount equal to the total cost for development and procurement of, and system-specific construction for, a major system.

(b) Major system cost reports

(1) The program manager for a major system shall, on a quarterly basis, submit to the Director a major system cost report as described in paragraph (2).

(2) A major system cost report shall include the following information (as of the last day of the quarter for which the report is made):

(A) The total acquisition cost for the major system.

(B) Any cost variance or schedule variance in a major contract for the major system since the contract was entered into.

(C) Any changes from a major system schedule milestones or performances that are known, expected, or anticipated by the program manager.

(D) Any significant changes in the total acquisition cost for development and procurement of any software component of the major system, schedule milestones for such software component of the major system, or expected performance of such software component of the major system that are known, expected, or anticipated by the program manager.

(3) Each major system cost report required by paragraph (1) shall be submitted not more than 30 days after the end of the reporting quarter.

(c) Reports for breach of significant or critical cost growth thresholds

If the program manager of a major system for which a report has previously been submitted under subsection (b) determines at any time during a quarter that there is reasonable cause to believe that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold and if a report indicating an increase of such percentage or more has not previously been submitted to the Director, then the program manager shall immediately submit to the Director a major system cost report containing the information, determined as of the date of the report, required under subsection (b).

(d) Notification to Congress of cost growth

(1) Whenever a major system cost report is submitted to the Director, the Director shall determine whether the current acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold.

(2) If the Director determines that the current total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold, the Director shall submit to Congress a Major System Congressional Report pursuant to subsection (e).

(e) Requirement for Major System Congressional Report

(1) Whenever the Director determines under subsection (d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, a Major System Congressional Report shall be submitted to Congress not later than 45 days after the date on which the Director receives the major system cost report for such major system.

(2) If the total acquisition cost of a major system (as determined by the Director under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Director shall take actions consistent with the requirements of section 3102 of this title.

(f) Major System Congressional Report elements

(1) Except as provided in paragraph (2), each Major System Congressional Report shall include the following:

(A) The name of the major system.

(B) The date of the preparation of the report.

(C) The program phase of the major system as of the date of the preparation of the report.

(D) The estimate of the total acquisition cost for the major system expressed in constant base-year dollars and in current dollars.

(E) The current Baseline Estimate for the major system in constant base-year dollars and in current dollars.

(F) A statement of the reasons for any increase in total acquisition cost for the major system.

(G) The completion status of the major system—

(i) expressed as the percentage that the number of years for which funds have been appropriated for the major system is of the number of years for which it is planned that funds will be appropriated for the major system; and

(ii) expressed as the percentage that the amount of funds that have been appropriated for the major system is of the total amount of funds which it is planned will be appropriated for the major system.

(H) The fiscal year in which the major system was first authorized and in which funds for such system were first appropriated by Congress.

(I) The current change and the total change, in dollars and expressed as a percentage, in the total acquisition cost for the major system, stated both in constant base-year dollars and in current dollars.

(J) The quantity of end items to be acquired under the major system and the current change and total change, if any, in that quantity.

(K) The identities of the officers responsible for management and cost control of the major system.

(L) The action taken and proposed to be taken to control future cost growth of the major system.

(M) Any changes made in the performance or schedule milestones of the major system and the extent to which such changes have contributed to the increase in total acquisition cost for the major system.

(N) The following contract performance assessment information with respect to each major contract under the major system:

(i) The name of the contractor.

(ii) The phase that the contract is in at the time of the preparation of the report.

(iii) The percentage of work under the contract that has been completed.

(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

(v) The percentage by which the contract is currently ahead of or behind schedule.

(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the major system, contributing to the changes identified and a discussion of the effect these occurrences will have on the future costs and schedule of the major system.

(O) In any case in which one or more problems with a software component of the major system significantly contributed to the increase in costs of the major system, the action taken and proposed to be taken to solve such problems.

(2) A Major System Congressional Report prepared for a major system for which the increase in the total acquisition cost is due to termination or cancellation of the entire major system shall include only—

(A) the information described in subparagraphs (A) through (F) of paragraph (1); and

(B) the total percentage change in total acquisition cost for such system.

(g) Prohibition on obligation of funds

If a determination of an increase by a percentage equal to or greater than the significant cost growth threshold is made by the Director under subsection (d) and a Major System Congressional Report containing the information described in subsection (f) is not submitted to Congress under subsection (e)(1), or if a determination of an increase by a percentage equal to or greater than the critical cost growth threshold is made by the Director under subsection (d) and the Major System Congressional Report containing the information described in subsection (f) and section 3102(b)(3) of this title and the certification required by section 3102(b)(2) of this title are not submitted to Congress under subsection (e)(2), funds appropriated for construction, research, development, test, evaluation, and procurement may not be obligated for a major contract under the major system. The prohibition on the obligation of funds for a major system shall cease to apply at the end of the 45-day period that begins on the date—

(1) on which Congress receives the Major System Congressional Report under subsection (e)(1) with respect to that major system, in the case of a determination of an increase by a percentage equal to or greater than the significant cost growth threshold (as determined in subsection (d)); or

(2) on which Congress receives both the Major System Congressional Report under subsection (e)(2) and the certification of the Director under section 3102(b)(2) of this title with respect to that major system, in the case of an increase by a percentage equal to or greater than the critical cost growth threshold (as determined under subsection (d)).

(h) Treatment of cost increases prior to October 7, 2010

(1) Not later than 180 days after October 7, 2010, the Director—

(A) shall, for each major system, determine if the total acquisition cost of such major system increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold prior to such date;

(B) shall establish for each major system for which the total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold prior to such date a revised current Baseline Estimate based upon an updated cost estimate;

(C) may, for a major system not described in subparagraph (B), establish a revised current Baseline Estimate based upon an updated cost estimate; and

(D) shall submit to Congress a report describing—

(i) each determination made under subparagraph (A);

(ii) each revised current Baseline Estimate established for a major system under subparagraph (B); and

(iii) each revised current Baseline Estimate established for a major system under subparagraph (C), including the percentage increase of the total acquisition cost of such major system that occurred prior to October 7, 2010.

(2) The revised current Baseline Estimate established for a major system under subparagraph (B) or (C) of paragraph (1) shall be the 2010 adjusted total acquisition cost for the major system and may include the estimated cost of conducting any vulnerability assessments for such major system required under section 3099 of this title.

(i) Requirements to use base year dollars

Any determination of a percentage increase under this section shall be stated in terms of constant base year dollars.

(j) Form of report

Any report required to be submitted under this section may be submitted in a classified form.

(July 26, 1947, ch. 343, title V, §506E, as added Pub. L. 111–259, title III, §323(a)(1), Oct. 7, 2010, 124 Stat. 2674.)

CODIFICATION

Section was formerly classified to section 415a–7 of this title prior to editorial reclassification and renumbering as this section.

APPLICABILITY DATE OF QUARTERLY REPORTS

Pub. L. 111–259, title III, § 323(a)(2), Oct. 7, 2010, 124 Stat. 2678, provided that: ''The first report required to be submitted under subsection (b) of section 506E of the National security [Security] Act of 1947 [50 U.S.C. 3101(b)], as added by paragraph (1) of this subsection, shall be submitted with respect to the first fiscal quarter that begins on a date that is not less than 180 days after the date of the enactment of this Act [Oct. 7, 2010].''

MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–259, title III, § 323(b), Oct. 7, 2010, 124 Stat. 2678, provided that: ''Nothing in this section [enacting this section and provisions set out as a note under this section], section 324 [enacting section 3102 of this title], or an amendment made by this section or section 324, shall be construed to exempt an acquisition program of the Department of Defense from the requirements of chapter 144 of title 10, United States Code[,] or Department of Defense Directive 5000, to the extent that such requirements are otherwise applicable.''

§ 3102. Critical cost growth in major systems

(a) Reassessment of major system

If the Director of National Intelligence determines under section 3101(d) of this title that the total acquisition cost of a major system has increased by a percentage equal to or greater than the critical cost growth threshold for the major system, the Director shall—

(1) determine the root cause or causes of the critical cost growth, in accordance with applicable statutory requirements, policies, procedures, and guidance; and

(2) carry out an assessment of—

(A) the projected cost of completing the major system if current requirements are not modified;

(B) the projected cost of completing the major system based on reasonable modification of such requirements;

(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

(D) the need to reduce funding for other systems due to the growth in cost of the major system.

(b) Presumption of termination

(1) After conducting the reassessment required by subsection (a) with respect to a major system, the Director shall terminate the major system unless the Director submits to Congress a Major System Congressional Report containing a certification in accordance with paragraph (2) and the information described in paragraph (3). The Director shall submit such Major System Congressional Report and certification not later than 90 days after the date the Director receives the relevant major system cost report under subsection (b) or (c) of section 3101 of this title.

(2) A certification described by this paragraph with respect to a major system is a written certification that—

(A) the continuation of the major system is essential to the national security;

(B) there are no alternatives to the major system that will provide acceptable capability to meet the intelligence requirement at less cost;

(C) the new estimates of the total acquisition cost have been determined by the Director to be reasonable;

(D) the major system is a higher priority than other systems whose funding must be reduced to accommodate the growth in cost of the major system; and

(E) the management structure for the major system is adequate to manage and control the total acquisition cost.

(3) A Major System Congressional Report accompanying a written certification under paragraph (2) shall include, in addition to the requirements of section 3101(e) of this title, the root cause analysis and assessment carried out pursuant to subsection (a), the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), and a description of all funding changes made as a result of the growth in the cost of the major system, including reductions made in funding for other systems to accommodate such cost growth, together with supporting documentation.

(c) Actions if major system not terminated

If the Director elects not to terminate a major system pursuant to subsection (b), the Director shall—

(1) restructure the major system in a manner that addresses the root cause or causes of the critical cost growth, as identified pursuant to subsection (a), and ensures that the system has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E);

(2) rescind the most recent Milestone approval for the major system;

(3) require a new Milestone approval for the major system before taking any action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the system, except to the extent determined necessary by the Milestone Decision Authority, on a nondelegable basis, to ensure that the system may be restructured as intended by the Director without unnecessarily wasting resources;

(4) establish a revised current Baseline Estimate for the major system based upon an updated cost estimate; and

(5) conduct regular reviews of the major system.

(d) Actions if major system terminated

If a major system is terminated pursuant to subsection (b), the Director shall submit to Congress a written report setting forth—

(1) an explanation of the reasons for terminating the major system;

(2) the alternatives considered to address any problems in the major system; and

(3) the course the Director plans to pursue to meet any intelligence requirements otherwise intended to be met by the major system.

(e) Form of report

Any report or certification required to be submitted under this section may be submitted in a classified form.

(f) Waiver

(1) The Director may waive the requirements of subsections (d)(2), (e), and (g) of section 3101

of this title and subsections (a)(2), (b), (c), and (d) of this section with respect to a major system if the Director determines that at least 90 percent of the amount of the current Baseline Estimate for the major system has been expended.

(2)(A) If the Director grants a waiver under paragraph (1) with respect to a major system, the Director shall submit to the congressional intelligence committees written notice of the waiver that includes—

(i) the information described in section 3101(f) of this title; and

(ii) if the current total acquisition cost of the major system has increased by a percentage equal to or greater than the critical cost growth threshold—

(I) a determination of the root cause or causes of the critical cost growth, as described in subsection (a)(1); and

(II) a certification that includes the elements described in subparagraphs (A), (B), and (E) of subsection (b)(2).

(B) The Director shall submit the written notice required by subparagraph (A) not later than 90 days after the date that the Director receives a major system cost report under subsection (b) or (c) of section 3101 of this title that indicates that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold.

(g) Definitions

In this section, the terms ''cost estimate'', ''critical cost growth threshold'', ''current Baseline Estimate'', ''major system'', and ''total acquisition cost'' have the meaning given those terms in section 3101(a) of this title.

(July 26, 1947, ch. 343, title V, § 506F, as added Pub. L. 111–259, title III, § 324(a), Oct. 7, 2010, 124 Stat. 2679.)

CODIFICATION

Section was formerly classified to section 415a–8 of this title prior to editorial reclassification and renumbering as this section.

§ 3103. Future budget projections

(a) Future Year Intelligence Plans

(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

(A) each expenditure center in the National Intelligence Program; and

(B) each major system in the National Intelligence Program.

(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent fiscal years.

(B) A Future Year Intelligence Plan submitted under subparagraph (B) of paragraph (1) for a major system shall include—

(i) the estimated total life-cycle cost of such major system; and

(ii) major milestones that have significant resource implications for such major system.

(b) Long-term Budget Projections

(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the day after the end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).

(2) A Long-term Budget Projection submitted under paragraph (1) shall include—

(A) projections for the appropriate element of the intelligence community for—

(i) pay and benefits of officers and employees of such element;

(ii) other operating and support costs and minor acquisitions of such element;

(iii) research and technology required by such element;

(iv) current and planned major system acquisitions for such element;

(v) any future major system acquisitions for such element; and

(vi) any additional funding projections that the Director of National Intelligence considers appropriate;

(B) a budget projection based on effective cost and schedule execution of current or planned major system acquisitions and application of Office of Management and Budget inflation estimates to future major system acquisitions;

(C) any additional assumptions and projections that the Director of National Intelligence considers appropriate; and

(D) a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.

(c) Submission to Congress

The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall submit to the congressional intelligence committees each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) for a fiscal year at the time that the President submits to Congress the budget for such fiscal year pursuant section [1] 1105 of title 31.

(d) Major system affordability report

(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall prepare a report on the acquisition of a major system funded

[1] So in original. Probably should be preceded by ''to''.

under the National Intelligence Program before the time that the President submits to Congress the budget for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(2) The report on such major system shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection submitted under this section for an element of the intelligence community.

(3) The Director of National Intelligence shall update the report whenever an independent cost estimate must be updated pursuant to section 3097(a)(4) of this title.

(4) The Director of National Intelligence shall submit each report required by this subsection at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31.

(e) Definitions

In this section:

(1) Budget year

The term ''budget year'' means the next fiscal year for which the President is required to submit to Congress a budget pursuant to section 1105 of title 31.

(2) Independent cost estimate; major system

The terms ''independent cost estimate'' and ''major system'' have the meaning given those terms in section 3097(e) of this title.

(July 26, 1947, ch. 343, title V, § 506G, as added Pub. L. 111–259, title III, § 325(a), Oct. 7, 2010, 124 Stat. 2681.)

CODIFICATION

Section was formerly classified to section 415a–9 of this title prior to editorial reclassification and renumbering as this section.

APPLICABILITY DATE

Pub. L. 111–259, title III, § 325(b), Oct. 7, 2010, 124 Stat. 2683, provided that: ''The first Future Year Intelligence Plan and Long-term Budget Projection required to be submitted under subsection (a) and (b) of section 506G of the National Security Act of 1947 [50 U.S.C. 3103(a), (b)], as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.''

[For definition of ''congressional intelligence committees'' as used in section 325(b) of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a note under section 3003 of this title.]

FUTURE-YEARS INTELLIGENCE PROGRAM

Pub. L. 113–235, div. C, title VIII, § 8095, Dec. 16, 2014, 128 Stat. 2276, provided that: ''The Director of National Intelligence shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, United States Code, a future-years intelligence program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years intelligence program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.''

Similar provisions were contained in the following appropriation acts:

Pub. L. 113–76, div. C, title VIII, § 8090, Jan. 17, 2014, 128 Stat. 126.

Pub. L. 113–6, div. C, title VIII, § 8091, Mar. 26, 2013, 127 Stat. 318.

Pub. L. 112–74, div. A, title VIII, § 8094, Dec. 23, 2011, 125 Stat. 828.

Pub. L. 112–10, div. A, title VIII, § 8094, Apr. 15, 2011, 125 Stat. 77.

Pub. L. 111–118, div. A, title VIII, § 8104, Dec. 19, 2009, 123 Stat. 3451, repealed by Pub. L. 111–259, title III, § 325(c)(2), Oct. 7, 2010, 124 Stat. 2683.

Pub. L. 110–329, div. C, title VIII, § 8112, Sept. 30, 2008, 122 Stat. 3645.

§ 3104. Reports on security clearances

(a) Quadrennial audit of position requirements

(1) The President shall every four years conduct an audit of the manner in which the executive branch determines whether a security clearance is required for a particular position in the United States Government.

(2) Not later than 30 days after the completion of an audit conducted under paragraph (1), the President shall submit to Congress the results of such audit.

(b) Report on security clearance determinations

(1) Not later than February 1 of each year, the President shall submit to Congress a report on the security clearance process. Such report shall include, for each security clearance level—

(A) the number of employees of the United States Government who—

(i) held a security clearance at such level as of October 1 of the preceding year; and

(ii) were approved for a security clearance at such level during the preceding fiscal year;

(B) the number of contractors to the United States Government who—

(i) held a security clearance at such level as of October 1 of the preceding year; and

(ii) were approved for a security clearance at such level during the preceding fiscal year; and

(C) for each element of the intelligence community—

(i) the total amount of time it took to process the security clearance determination for such level that—

(I) was among the 80 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

(II) took the longest amount of time to complete;

(ii) the total amount of time it took to process the security clearance determination for such level that—

(I) was among the 90 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

(II) took the longest amount of time to complete;

(iii) the number of pending security clearance investigations for such level as of October 1 of the preceding year that have remained pending for—

(I) 4 months or less;

(II) between 4 months and 8 months;

(III) between 8 months and one year; and

(IV) more than one year;

(iv) the percentage of reviews during the preceding fiscal year that resulted in a denial or revocation of a security clearance;

(v) the percentage of investigations during the preceding fiscal year that resulted in incomplete information;

(vi) the percentage of investigations during the preceding fiscal year that did not result in enough information to make a decision on potentially adverse information; and

(vii) for security clearance determinations completed or pending during the preceding fiscal year that have taken longer than one year to complete—

(I) the number of security clearance determinations for positions as employees of the United States Government that required more than one year to complete;

(II) the number of security clearance determinations for contractors that required more than one year to complete;

(III) the agencies that investigated and adjudicated such determinations; and

(IV) the cause of significant delays in such determinations.

(2) For purposes of paragraph (1), the President may consider—

(A) security clearances at the level of confidential and secret as one security clearance level; and

(B) security clearances at the level of top secret or higher as one security clearance level.

(c) Form

The results required under subsection (a)(2) and the reports required under subsection (b)(1) shall be submitted in unclassified form, but may include a classified annex.

(July 26, 1947, ch. 343, title V, §506H, as added Pub. L. 111–259, title III, §367(a)(1)(A), Oct. 7, 2010, 124 Stat. 2703.)

CODIFICATION

Section was formerly classified to section 415a–10 of this title prior to editorial reclassification and renumbering as this section.

INITIAL AUDIT

Pub. L. 111–259, title III, §367(a)(1)(B), Oct. 7, 2010, 124 Stat. 2704, provided that: ''The first audit required to be conducted under section 506H(a)(1) of the National Security Act of 1947 [50 U.S.C. 3104(a)(1)], as added by subparagraph (A) of this paragraph, shall be completed not later than February 1, 2011.''

§3105. Summary of intelligence relating to terrorist recidivism of detainees held at United States Naval Station, Guantanamo Bay, Cuba

(a) In general

The Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, shall make publicly available an unclassified summary of—

(1) intelligence relating to recidivism of detainees currently or formerly held at the Naval Detention Facility at Guantanamo Bay, Cuba, by the Department of Defense; and

(2) an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.

(b) Updates

Not less frequently than once every 6 months, the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Secretary of Defense, shall update and make publicly available an unclassified summary consisting of the information required by subsection (a) and the number of individuals formerly detained at Naval Station, Guantanamo Bay, Cuba, who are confirmed or suspected of returning to terrorist activities after release or transfer from such Naval Station.

(July 26, 1947, ch. 343, title V, §506I, as added Pub. L. 112–87, title III, §307(a)(1), Jan. 3, 2012, 125 Stat. 1882.)

CODIFICATION

Section was formerly classified to section 415a–11 of this title prior to editorial reclassification and renumbering as this section.

INITIAL UPDATE

Pub. L. 112–87, title III, §307(a)(2), Jan. 3, 2012, 125 Stat. 1883, provided that: ''The initial update required by section 506I(b) of such Act [act July 26, 1947, ch. 343; 50 U.S.C. 3105(b)], as added by paragraph (1) of this subsection, shall be made publicly available not later than 10 days after the date the first report following the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2012 [Jan. 3, 2012] is submitted to members and committees of Congress pursuant to section 319 of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 10 U.S.C. 801 note).''

§3105a. Annual assessment of intelligence community performance by function

(a) In general

Not later than April 1, 2016, and each year thereafter, the Director of National Intelligence shall, in consultation with the Functional Managers, submit to the congressional intelligence committees a report on covered intelligence functions during the preceding year.

(b) Elements

Each report under subsection (a) shall include for each covered intelligence function for the year covered by such report the following:

(1) An identification of the capabilities, programs, and activities of such intelligence function, regardless of the element of the intelligence community that carried out such capabilities, programs, and activities.

(2) A description of the investment and allocation of resources for such intelligence function, including an analysis of the allocation of resources within the context of the National Intelligence Strategy, priorities for recipients of resources, and areas of risk.

(3) A description and assessment of the performance of such intelligence function.

(4) An identification of any issues related to the application of technical interoperability standards in the capabilities, programs, and activities of such intelligence function.

(5) An identification of the operational overlap or need for de-confliction, if any, within such intelligence function.

(6) A description of any efforts to integrate such intelligence function with other intelligence disciplines as part of an integrated intelligence enterprise.

(7) A description of any efforts to establish consistency in tradecraft and training within such intelligence function.

(8) A description and assessment of developments in technology that bear on the future of such intelligence function.

(9) Such other matters relating to such intelligence function as the Director may specify for purposes of this section.

(c) Definitions

In this section:

(1) The term ''covered intelligence functions'' means each intelligence function for which a Functional Manager has been established under section 3034a of this title during the year covered by a report under this section.

(2) The term ''Functional Manager'' means the manager of an intelligence function established under section 3034a of this title.

(July 26, 1947, ch. 343, title V, § 506J, as added Pub. L. 113–126, title III, § 306(a), July 7, 2014, 128 Stat. 1395.)

§ 3106. Dates for submittal of various annual and semiannual reports to the congressional intelligence committees

(a) Annual reports

The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1):

(1) The annual report of the Inspectors Generals[1] of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

(2) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 2291–4(c)(2) of title 22.

(3) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

(4) The annual report on hiring and retention of minority employees in the intelligence community required by section 3050(a) of this title.

(5) The annual report on outside employment of employees of elements of the intelligence community required by section 3024(u)(2) of this title.

(6) The annual report on financial intelligence on terrorist assets required by section 3055 of this title.

(b) Semiannual reports

The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2) of this section:

(1) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.

(2) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 1681u(h)(2) of title 15.[2]

(3) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 3414(a)(5)(C) of title 12.

(c) Submittal dates for reports

(1) Except as provided in subsection (d) of this section, each annual report listed in subsection (a)(1) of this section shall be submitted not later than February 1.

(2) Except as provided in subsection (d) of this section, each semiannual report listed in subsection (b) of this section shall be submitted not later than February 1 and August 1.

(d) Postponement of submittal

(1) Subject to paragraph (3), the date for the submittal of—

(A) an annual report listed in subsection (a) of this section may be postponed until March 1; and

(B) a semiannual report listed in subsection (b) of this section may be postponed until March 1 or September 1, as the case may be,

if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

(B) A certification with respect to a report under subparagraph (A) shall include a proposed

[1] So in original. Probably should be ''General''.

[2] See References in Text note below.

submittal date for such report, and such report shall be submitted not later than that date.

(July 26, 1947, ch. 343, title V, §507, as added Pub. L. 107–306, title VIII, §811(a)(1), Nov. 27, 2002, 116 Stat. 2418; amended Pub. L. 108–177, title III, §361(*l*), Dec. 13, 2003, 117 Stat. 2626; Pub. L. 111–259, title III, §349, title V, §501(b)(3), Oct. 7, 2010, 124 Stat. 2700, 2739; Pub. L. 112–277, title III, §§309(b)(2), 310(b)(1), Jan. 14, 2013, 126 Stat. 2474, 2475; Pub. L. 113–126, title III, §329(c)(3), July 7, 2014, 128 Stat. 1407.)

REFERENCES IN TEXT

Section 8H(g) of the Inspector General Act of 1978, referred to in subsec. (a)(1), is section 8H(g) of Pub. L. 95–452, which is set out in the Appendix to Title 5, Government Organization and Employees.

The David L. Boren National Security Education Act of 1991, referred to in subsec. (a)(3), is title VIII of Pub. L. 102–183, Dec. 4, 1991, 105 Stat. 1271, which is classified generally to chapter 37 (§1901 et seq.) of this title. For complete classification of this Act to the Code, see section 1901(a) of this title and Tables.

The Classified Information Procedures Act, referred to in subsec. (b)(1), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Section 1681u(h)(2) of title 15, referred to in subsec. (b)(2), was in the original ''section 624(h)(2) of the Fair Credit Reporting Act'', which was translated as reading ''section 626(h)(2) of the Fair Credit Reporting Act'', to reflect the probable intent of Congress and the renumbering of section 624 as 626 by section 358(g)(1)(A) of Pub. L. 107–56 and section 214(a)(1) of Pub. L. 108–159.

CODIFICATION

Section was formerly classified to section 415b of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–126, §329(c)(3)(A), in introductory provisions, struck out par. (1) designation before ''The date'' and substituted ''subsection (c)(1)'' for ''subsection (c)(1)(A)'', redesignated subpars. (A) to (F) of former par. (1) as pars. (1) to (6), respectively, and struck out former par. (2) which read as follows: ''The date for the submittal to the congressional intelligence committees of the annual report on the threat of attack on the United States from weapons of mass destruction required by section 3050(b) of this title shall be the date each year provided in subsection (c)(1)(B).''

Subsec. (c)(1). Pub. L. 113–126, §329(c)(3)(B), struck out subpar. (A) designation before ''Except'' and struck out subpar. (B) which read as follows: ''Except as provided in subsection (d) of this section, the annual report listed in subsection (a)(2) of this section shall be submitted not later than December 1.''

Subsec. (d)(1). Pub. L. 113–126, §329(c)(3)(C), in subpar. (A), substituted ''subsection (a)'' for ''subsection (a)(1)'' and inserted ''and'' after ''March 1;'', redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: ''the annual report listed in subsection (a)(2) of this section may be postponed until January 1; and''.

2013—Subsec. (a)(1). Pub. L. 112–277, §310(b)(1)(A)(i)(I), (II), redesignated subpars. (B), (E), (F), (G), (H), and (I) as (A), (B), (C), (D), (E), and (F), respectively, and struck out former subpars. (A), (C), and (D) which read as follows:

''(A) The annual report on the protection of the identities of covert agents required by section 423 of this title.

''(C) The annual report on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 2366 of this title.

''(D) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10.''

Subsec. (a)(1)(D). Pub. L. 112–277, §310(b)(1)(A)(i)(III), substituted ''section 404i(a)'' for ''section 404i(c)''.

Subsec. (a)(2). Pub. L. 112–277, §310(b)(1)(A)(ii), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B) of this section:

''(A) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 404i(a) of this title.

''(B) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 404i(c) of this title.''

Subsec. (b). Pub. L. 112–277, §309(b)(2), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 403q(d)(1) of this title.''

Subsec. (c)(1)(B). Pub. L. 112–277, §310(b)(1)(B), substituted ''the annual report'' for ''each annual report''.

Subsec. (d)(1)(B). Pub. L. 112–277, §310(b)(1)(C), substituted ''the annual report'' for ''an annual report''.

2010—Subsec. (a)(1). Pub. L. 111–259, §349(1)(A), added subpars. (H) and (I), redesignated former subpars. (C) to (F), (H), (I), and (N) as (A) to (G), respectively, and struck out former subpars. (A), (B), and (G) which read as follows:

''(A) The annual report on intelligence required by section 404d of this title.

''(B) The annual report on intelligence provided to the United Nations required by section 404g(b)(1) of this title.

''(G) The annual update on foreign industrial espionage required by section 2170b(b) of the Appendix to this title.''

Subsec. (a)(2)(C), (D). Pub. L. 111–259, §349(1)(B), struck out subpars. (C) and (D) which read as follows:

''(C) The annual report on improvements of the financial statements of the intelligence community for auditing purposes required by section 404i–1 of this title.

''(D) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.''

Subsec. (b)(3) to (5). Pub. L. 111–259, §501(b)(3), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows:

''(3) The semiannual reports on the activities of the Diplomatic Telecommunications Service Program Office (DTS–PO) required by section 7302(a)(6)(D)(ii) of title 22.''

Subsec. (b)(6). Pub. L. 111–259, §349(2), struck out par. (6) which read as follows:

''(6) The semiannual report on financial intelligence on terrorist assets required by section 404m of this title.''

2003—Subsec. (a)(1)(A). Pub. L. 108–177, §361(*l*)(1)(A)(i), (ii), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: ''The annual evaluation of the performance and responsiveness of certain elements of the intelligence community required by section 403–5(d) of this title.''

Subsec. (a)(1)(B). Pub. L. 108–177, §361(*l*)(1)(A)(iii), added subpar. (B). Former subpar. (B) redesignated (A).

Subsec. (a)(1)(C). Pub. L. 108–177, §361(*l*)(1)(A)(i), (ii), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''The annual report on intelligence community cooperation with Federal law enforcement agencies required by section 404i(a)(2) of this title.''

Subsec. (a)(1)(D). Pub. L. 108–177, §361(*l*)(1)(A)(ii), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Subsec. (a)(1)(E). Pub. L. 108–177, §361(*l*)(1)(A)(iv), added subpar. (E). Former subpar. (E) redesignated (D).

Subsec. (a)(1)(G). Pub. L. 108–177, § 361(*l*)(1)(A)(i), (ii), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: ''The annual report on expenditures for postemployment assistance for terminated intelligence employees required by section 1611(e)(2) of title 10.''

Subsec. (a)(1)(H). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (K) as (H). Former subpar. (H) redesignated (G).

Subsec. (a)(1)(I). Pub. L. 108–177, § 361(*l*)(1)(A)(i), (ii), redesignated subpar. (M) as (I) and struck out former subpar. (I) which read as follows: ''The annual report on coordination of counterintelligence matters with the Federal Bureau of Investigation required by section 402a(c)(6) of this title.''

Subsec. (a)(1)(J). Pub. L. 108–177, § 361(*l*)(1)(A)(i), struck out subpar. (J) which read as follows: ''The annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets required by section 404n–3 of this title.''

Subsec. (a)(1)(K). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (K) as (H).

Subsec. (a)(1)(L). Pub. L. 108–177, § 361(*l*)(1)(A)(i), struck out subpar. (L) which read as follows: ''The annual report on exceptions to consumer disclosure requirements for national security investigations under section 1681b(b)(4)(E) of title 15.''

Subsec. (a)(1)(M). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (M) as (I).

Subsec. (a)(1)(N). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), which directed that subpar. (N) be redesignated, could not be executed because there was no corresponding subpar. provided for such redesignation.

Subsec. (a)(2). Pub. L. 108–177, § 361(*l*)(1)(B)(iii), (iv), redesignated subpars. (D) and (G) as (C) and (D), respectively, and struck out subpars. (C), (E), and (F) which read as follows:

''(C) The annual report on covert leases required by section 404i(e) of this title.

''(E) The annual report on activities of personnel of the Federal Bureau of Investigation outside the United States required by section 540C(c)(2) of title 28.

''(F) The annual report on intelligence activities of the People's Republic of China required by section 308(c) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 50 U.S.C. 402a note).''

Subsec. (a)(2)(A). Pub. L. 108–177, § 361(*l*)(1)(B)(i), substituted ''section 404i(a)'' for ''section 404i(b)''.

Subsec. (a)(2)(B). Pub. L. 108–177, § 361(*l*)(1)(B)(ii), substituted ''section 404i(c)'' for ''section 404i(d)''.

Subsec. (b). Pub. L. 108–177, § 361(*l*)(2), redesignated pars. (2), (3), (5), (6), (7), and (8) as (1), (2), (3), (4), (5), and (6), respectively, and struck out former pars. (1) and (4) which read as follows:

''(1) The periodic reports on intelligence provided to the United Nations required by section 404g(b) of this title.

''(4) The semiannual reports on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 2366(b) of this title.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY

Pub. L. 108–487, title I, § 107, Dec. 23, 2004, 118 Stat. 3943, provided that:

''(a) CONSULTATION IN PREPARATION.—(1) The Director of National Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act [see Tables for classification], including a provision of the classified Schedule of Authorizations referred to in section 102(a) [118 Stat. 3940] or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

''(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

''(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees or subcommittees of Congress, as appropriate:

''(1) The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

''(2) The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.''

Similar provisions were contained in the following prior acts:

Pub. L. 108–177, title I, § 107, Dec. 13, 2003, 117 Stat. 2604.

Pub. L. 107–306, title I, § 109, Nov. 27, 2002, 116 Stat. 2389.

Pub. L. 107–108, title V, § 505, Dec. 28, 2001, 115 Stat. 1406.

DEADLINE FOR SUBMITTAL OF VARIOUS OVERDUE REPORTS

Pub. L. 107–306, title VIII, § 801, Nov. 27, 2002, 116 Stat. 2418, provided that certain overdue reports that the Director of Central Intelligence has sole or primary responsibility to present to Congress must be submitted to Congress no later than 180 days after Nov. 27, 2002, or amounts available to the Director to carry out the functions and duties of the Director's Office would be reduced by ⅓.

§ 3107. Certification of compliance with oversight requirements

The head of each element of the intelligence community shall annually submit to the congressional intelligence committees—

(1) a certification that, to the best of the knowledge of the head of such element—

(A) the head of such element is in full compliance with the requirements of this subchapter; and

(B) any information required to be submitted by the head of such element under this chapter before the date of the submission of such certification has been properly submitted; or

(2) if the head of such element is unable to submit a certification under paragraph (1), a statement—

(A) of the reasons the head of such element is unable to submit such a certification;

(B) describing any information required to be submitted by the head of such element under this chapter before the date of the submission of such statement that has not been properly submitted; and

(C) that the head of such element will submit such information as soon as possible after the submission of such statement.

(July 26, 1947, ch. 343, title V, § 508, as added Pub. L. 111–259, title III, § 332(a), Oct. 7, 2010, 124 Stat. 2686.)

REFERENCES IN TEXT

This chapter, referred to in pars. (1)(B) and (2)(B), was in the original ''this Act'', meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 415d of this title prior to editorial reclassification and renumbering as this section.

APPLICABILITY DATE

Pub. L. 111–259, title III, § 332(b), Oct. 7, 2010, 124 Stat. 2687, provided that: ''The first certification or statement required to be submitted by the head of each element of the intelligence community under section 508 of the National Security Act of 1947 [50 U.S.C. 3107], as added by subsection (a), shall be submitted not later than 90 days after the date of the enactment of this Act [Oct. 7, 2010].''

[For definition of ''intelligence community'' as used in section 332(b) of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a note under section 3003 of this title.]

§ 3108. Auditability of certain elements of the intelligence community

(a) Requirement for annual audits

The head of each covered entity shall ensure that there is a full financial audit of such covered entity each year beginning with fiscal year 2014. Such audits may be conducted by an internal or external independent accounting or auditing organization.

(b) Requirement for unqualified opinion

Beginning as early as practicable, but in no event later than the audit required under subsection (a) for fiscal year 2016, the head of each covered entity shall take all reasonable steps necessary to ensure that each audit required under subsection (a) contains an unqualified opinion on the financial statements of such covered entity for the fiscal year covered by such audit.

(c) Reports to Congress

The chief financial officer of each covered entity shall provide to the congressional intelligence committees an annual audit report from an accounting or auditing organization on each audit of the covered entity conducted pursuant to subsection (a).

(d) Covered entity defined

In this section, the term ''covered entity'' means the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency.

(July 26, 1947, ch. 343, title V, § 509, as added Pub. L. 113–126, title III, § 309(a), July 7, 2014, 128 Stat. 1398.)

§ 3109. Significant interpretations of law concerning intelligence activities

(a) Notification

Except as provided in subsection (c) and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the General Counsel of each element of the intelligence community shall notify the congressional intelligence committees, in writing, of any significant legal interpretation of the United States Constitution or Federal law affecting intelligence activities conducted by such element by not later than 30 days after the date of the commencement of any intelligence activity pursuant to such interpretation.

(b) Content

Each notification under subsection (a) shall provide a summary of the significant legal interpretation and the intelligence activity or activities conducted pursuant to such interpretation.

(c) Exceptions

A notification under subsection (a) shall not be required for a significant legal interpretation if—

(1) notice of the significant legal interpretation was previously provided to the congressional intelligence committees under subsection (a); or

(2) the significant legal interpretation was made before July 7, 2014.

(d) Limited access for covert action

If the President determines that it is essential to limit access to a covert action finding under section 3093(c)(2) of this title, the President may limit access to information concerning such finding that is subject to notification under this section to those members of Congress who have been granted access to the relevant finding under section 3093(c)(2) of this title.

(July 26, 1947, ch. 343, title V, § 510, as added Pub. L. 113–126, title III, § 321(a), July 7, 2014, 128 Stat. 1399.)

§ 3110. Annual report on violations of law or executive order

(a) Annual reports required

The Director of National Intelligence shall annually submit to the congressional intelligence committees a report on violations of law or executive order relating to intelligence activities by personnel of an element of the intelligence community that were identified during the previous calendar year.

(b) Elements

Each report submitted under subsection (a) shall, consistent with the need to preserve ongoing criminal investigations, include a description of, and any action taken in response to, any violation of law or executive order (including Executive Order No. 12333 (50 U.S.C. 3001 note)) relating to intelligence activities committed by personnel of an element of the intelligence community in the course of the employment of such personnel that, during the previous calendar year, was—

(1) determined by the director, head, or general counsel of any element of the intelligence community to have occurred;

(2) referred to the Department of Justice for possible criminal prosecution; or

(3) substantiated by the inspector general of any element of the intelligence community.

(July 26, 1947, ch. 343, title V, § 511, as added Pub. L. 113–293, title III, § 323(a), Dec. 19, 2014, 128 Stat. 4003.)

CONSTRUCTION

Pub. L. 113–293, title III, § 323(e), Dec. 19, 2014, 128 Stat. 4004, provided that: ''Nothing in this section [enacting this section and provisions set out as notes under this section] or the amendments made by this section shall be construed to alter any requirement existing on the date of the enactment of this Act [Dec. 19, 2014] to submit a report under any provision of law.''

INITIAL REPORT

Pub. L. 113–293, title III, § 323(b), Dec. 19, 2014, 128 Stat. 4004, provided that: ''The first report required under section 511 of the National Security Act of 1947 [50 U.S.C. 3110], as added by subsection (a), shall be submitted not later than one year after the date of the enactment of this Act [Dec. 19, 2014].''

GUIDELINES

Pub. L. 113–293, title III, § 323(c), Dec. 19, 2014, 128 Stat. 4004, provided that: ''Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], the Director of National Intelligence, in consultation with the head of each element of the intelligence community, shall—

''(1) issue guidelines to carry out section 511 of the National Security Act of 1947 [50 U.S.C. 3110], as added by subsection (a); and

''(2) submit such guidelines to the congressional intelligence committees.''

[For definitions of terms used in section 323(c) of Pub. L. 113–293, set out above, see section 2 of Pub. L. 113–293, set out as a note under section 3003 of this title.]

SUBCHAPTER IV—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

§ 3121. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources

(a) Disclosure of information by persons having or having had access to classified information that identifies covert agent

Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than 15 years, or both.

(b) Disclosure of information by persons who learn identity of covert agents as result of having access to classified information

Whoever, as a result of having authorized access to classified information, learns the identify of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than 10 years, or both.

(c) Disclosure of information by persons in course of pattern of activities intended to identify and expose covert agents

Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than three years, or both.

(d) Imposition of consecutive sentences

A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

(July 26, 1947, ch. 343, title VI, § 601, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 122; amended Pub. L. 106–120, title III, § 304(b), Dec. 3, 1999, 113 Stat. 1611; Pub. L. 111–259, title III, § 363(a), Oct. 7, 2010, 124 Stat. 2701.)

CODIFICATION

Section was formerly classified to section 421 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–259, § 363(a)(1), substituted ''15 years'' for ''ten years''.

Subsec. (b). Pub. L. 111–259, § 363(a)(2), substituted ''10 years'' for ''five years''.

1999—Subsec. (a). Pub. L. 106–120, § 304(b)(2)(A), substituted ''shall be fined under title 18'' for ''shall be fined not more than $50,000''.

Subsec. (b). Pub. L. 106–120, § 304(b)(2)(B), substituted ''shall be fined under title 18'' for ''shall be fined not more than $25,000''.

Subsec. (c). Pub. L. 106–120, § 304(b)(2)(C), substituted ''shall be fined under title 18'' for ''shall be fined not more than $15,000''.

Subsec. (d). Pub. L. 106–120, § 304(b)(1), added subsec. (d).

§ 3122. Defenses and exceptions

(a) Disclosure by United States of identity of covert agent

It is a defense to a prosecution under section 3121 of this title that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

(b) Conspiracy, misprision of felony, aiding and abetting, etc.

(1) Subject to paragraph (2), no person other than a person committing an offense under section 3121 of this title shall be subject to prosecution under such section by virtue of section 2 or

4 of title 18 or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

(c) Disclosure to select congressional committees on intelligence

It shall not be an offense under section 3121 of this title to transmit information described in such section directly to either congressional intelligence committee.

(d) Disclosure by agent of own identity

It shall not be an offense under section 3121 of this title for an individual to disclose information that solely identifies himself as a covert agent.

(July 26, 1947, ch. 343, title VI, § 602, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 122; amended Pub. L. 107–306, title III, § 353(b)(9), Nov. 27, 2002, 116 Stat. 2402.)

CODIFICATION

Section was formerly classified to section 422 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–306 substituted ''either congressional intelligence committee'' for ''the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives''.

§ 3123. Repealed. Pub. L. 112–277, title III, § 310(a)(4)(A), Jan. 14, 2013, 126 Stat. 2475

Section, act July 26, 1947, ch. 343, title VI, § 603, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123; amended Pub. L. 107–306, title III, § 353(b)(1)(B), title VIII, § 811(b)(1)(E), Nov. 27, 2002, 116 Stat. 2402, 2422; Pub. L. 108–458, title I, § 1071(a)(1)(CC), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 111–259, title III, § 363(b), Oct. 7, 2010, 124 Stat. 2702, required an annual report by the President to Congress on measures to protect identities of covert agents, with an exemption from disclosure.

CODIFICATION

Section was formerly classified to section 423 of this title and repealed prior to editorial reclassification and renumbering as this section.

§ 3124. Extraterritorial jurisdiction

There is jurisdiction over an offense under section 3121 of this title committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 1101(a)(20) of title 8).

(July 26, 1947, ch. 343, title VI, § 603, formerly § 604, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123; renumbered § 603, Pub. L. 112–277, title III, § 310(a)(4)(B), Jan. 14, 2013, 126 Stat. 2475.)

CODIFICATION

Section was formerly classified to section 424 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 603 of act July 26, 1947, was classified to section 423 of this title, prior to repeal by Pub. L. 112–277, title III, § 310(a)(4)(A), Jan. 14, 2013, 126 Stat. 2475, and editorial reclassification as section 3123 of this title.

§ 3125. Providing information to Congress

Nothing in this subchapter may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

(July 26, 1947, ch. 343, title VI, § 604, formerly § 605, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123; renumbered § 604, Pub. L. 112–277, title III, § 310(a)(4)(B), Jan. 14, 2013, 126 Stat. 2475.)

CODIFICATION

Section was formerly classified to section 425 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 604 of act July 26, 1947, was renumbered section 603 and is classified to section 3124 of this title.

§ 3126. Definitions

For the purposes of this subchapter:

(1) The term ''classified information'' means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) The term ''authorized'', when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) The term ''disclose'' means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) The term ''covert agent'' means—

(A) a present or retired officer or employee of an intelligence agency or a present or retired member of the Armed Forces assigned to duty with an intelligence agency—

(i) whose identity as such an officer, employee, or member is classified information, and

(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term ''intelligence agency'' means the elements of the intelligence community, as that term is defined in section 3003(4) of this title.

(6) The term ''informant'' means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(7) The terms ''officer'' and ''employee'' have the meanings given such terms by section 2104 and 2105, respectively, of title 5.

(8) The term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term ''United States'', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term ''pattern of activities'' requires a series of acts with a common purpose or objective.

(July 26, 1947, ch. 343, title VI, § 605, formerly § 606, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123; amended Pub. L. 106–120, title III, § 304(a), Dec. 3, 1999, 113 Stat. 1611; renumbered § 605 and amended Pub. L. 112–277, title III, § 310(a)(4)(B), title V, § 506, Jan. 14, 2013, 126 Stat. 2475, 2478; Pub. L. 113–126, title VII, § 703(a), July 7, 2014, 128 Stat. 1422.)

CODIFICATION

Section was formerly classified to section 426 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 605 of act July 26, 1947, was renumbered section 604 and is classified to section 3125 of this title.

AMENDMENTS

2014—Pub. L. 113–126, § 703(a), made technical amendments to directory language of Pub. L. 112–277, § 506. See 2013 Amendment note below.

2013—Par. (5). Pub. L. 112–277, § 506, as amended by Pub. L. 113–126, § 703(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The term 'intelligence agency' means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.''

1999—Par. (4)(A). Pub. L. 106–120 substituted ''a present or retired officer or employee'' for ''an officer or employee'' and ''a present or retired member'' for ''a member''.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–126, title VII, § 703(b), July 7, 2014, 128 Stat. 1423, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as if included in the enactment of the Intelligence Authorization Act for Fiscal Year 2013 (Public Law 112–277).''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER V—PROTECTION OF OPERATIONAL FILES

§ 3141. Operational files of the Central Intelligence Agency

(a) Exemption by Director of Central Intelligence Agency

The Director of the Central Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the Central Intelligence Agency from the provisions of section 552 of title 5 (Freedom of Information Act) which require publication or disclosure, or search or review in connection therewith.

(b) "Operational files" defined

In this section, the term ''operational files'' means—

(1) files of the National Clandestine Service which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Personnel Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

(c) Search and review for information

Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5 (Free-

dom of Information Act) or section 552a of title 5 (Privacy Act of 1974);

(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5 (Freedom of Information Act); or

(3) the specific subject matter of an investigation by the congressional intelligence committees, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of National Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

(d) Information derived or disseminated from exempted operational files

(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) Supersedure of prior law

The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after October 15, 1984, and which specifically cites and repeals or modifies its provisions.

(f) Allegation; improper withholding of records; judicial review

Whenever any person who has requested agency records under section 552 of title 5 (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, except that—

(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(g) Decennial review of exempted operational files

(1) Not less than once every ten years, the Director of the Central Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) of this section to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the Central Intelligence Agency has conducted the review required by para-

graph (1) before October 15, 1994, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the Central Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 701, as added Pub. L. 98–477, § 2(a), Oct. 15, 1984, 98 Stat. 2209; amended Pub. L. 104–93, title VII, § 702, Jan. 6, 1996, 109 Stat. 978; Pub. L. 107–306, title III, § 353(b)(10), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–136, div. A, title IX, § 922(b)(1), (2)(B)–(F), (d)(1)(B), Nov. 24, 2003, 117 Stat. 1573, 1574; Pub. L. 108–458, title I, §§ 1071(a)(6), 1072(a)(7), Dec. 17, 2004, 118 Stat. 3690, 3692; Pub. L. 111–259, title VIII, § 804(6), Oct. 7, 2010, 124 Stat. 2747.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 431 of this title prior to editorial reclassification and renumbering as this section. Some section numbers of this title referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification.

The text of former section 432 of this title, which was transferred to this section and redesignated as subsec. (g) by Pub. L. 108–136, § 922(b)(2)(B), was based on act July 26, 1947, ch. 343, title VII, § 702, as added Pub. L. 98–477, § 2(a), Oct. 15, 1984, 98 Stat. 2211.

AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111–259 substituted ''National Clandestine Service'' for ''Directorate of Operations''.

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(6)(A), substituted ''The Director of the Central Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the Central Intelligence Agency'' for ''Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence''.

Subsec. (c)(3). Pub. L. 108–458, § 1072(a)(7), substituted ''Office of the Director of National Intelligence'' for ''Office of the Director of Central Intelligence''.

Subsec. (g)(1). Pub. L. 108–458, § 1071(a)(6)(B), substituted ''Director of the Central Intelligence Agency and the Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Pub. L. 108–136, § 922(d)(1)(B), substituted ''Operational files of the Central Intelligence Agency'' for ''Exemption of certain operational files from search, review, publication, or disclosure'' in section catchline.

Subsec. (b). Pub. L. 108–136, § 922(b)(1), which directed the substitution of ''In this section,'' for ''For purposes of this title'', was executed by making the substitution for ''For the purposes of this title'', to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 108–136, § 922(b)(2)(C), inserted heading.

Pub. L. 108–136, § 922(b)(2)(B), transferred text of section 432 of this title to this section, redesignated it as subsec. (g), and redesignated subsecs. (a) to (c) of that text as pars. (1) to (3), respectively, of subsec. (g).

Subsec. (g)(1). Pub. L. 108–136, § 922(b)(2)(D), substituted ''of this section'' for ''of section 431 of this title''.

Subsec. (g)(2). Pub. L. 108–136, § 922(b)(2)(E), which directed the substitution of ''paragraph (1)'' for ''of subsection (a) of this section'', was executed by making the substitution for ''subsection (a) of this section'', to reflect the probable intent of Congress.

Subsec. (g)(3). Pub. L. 108–136, § 922(b)(2)(F)(ii), substituted ''to determining the following:'' and subpars. (A) and (B) for ''to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.''

Pub. L. 108–136, § 922(b)(2)(F)(i), substituted ''with this subsection'' for ''with this section'' in first sentence.

2002—Subsec. (c)(3). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''intelligence committees of the Congress''.

1996—Subsec. (b)(3). Pub. L. 104–93 substituted ''Office of Personnel Security'' for ''Office of Security''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

EFFECTIVE DATE

Pub. L. 98–477, § 4, Oct. 15, 1984, 98 Stat. 2212, provided that: ''The amendments made by subsections (a) and (b) of section 2 [enacting this subchapter and amending section 552a of Title 5, Government Organization and Employees] shall be effective upon enactment of this Act [Oct. 15, 1984] and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.''

§ 3142. Operational files of the National Geospatial-Intelligence Agency

(a) Exemption of certain operational files from search, review, publication, or disclosure

(1) The Director of the National Geospatial-Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the National Geospatial-Intelligence Agency from the provisions of section 552 of title 5 which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ''operational files'' means files of the National Geospatial-Intelligence Agency (hereafter in this section referred to as ''NGA'') concerning the activities of NGA that before the establishment of NGA were performed by the National Photographic Interpretation Center of the Central Intelligence Agency (NPIC), that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The congressional intelligence committees.

(ii) The Intelligence Oversight Board.

(iii) The Department of Justice.

(iv) The Office of General Counsel of NGA.

(v) The Office of the Director of NGA.

(vi) The Office of the Inspector General of the National Geospatial-Intelligence Agency.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after December 3, 1999, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5 alleges that NGA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NGA, such information shall be examined ex parte, in camera by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NGA shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

(II) The court may not order NGA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NGA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NGA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NGA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NGA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of National Intelligence prior to submission to the court.

(b) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of the National Geospatial-Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a)(1) of this section to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NGA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NGA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on December 3, 1999, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NGA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 702, formerly title I, § 105B, as added Pub. L. 106–120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616; renumbered § 105C, Pub. L. 107–56, title IX, § 905(a)(1), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 107–306, title III, § 353(b)(5), Nov. 27, 2002, 116 Stat. 2402; renumbered title VII, § 702, and amended Pub. L. 108–136, div. A, title IX, §§ 921(e)(4), 922(c), (d)(1)(C), Nov. 24, 2003, 117 Stat. 1569, 1573, 1574; Pub. L. 108–375, div. A, title X, § 1084(j), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 108–458, title I, § 1071(a)(1)(DD)–(FF), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–163, div. A, title IX, § 933(b)(1), Jan. 6, 2006, 119 Stat. 3416.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(6)(B)(v), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 432 of this title prior to editorial reclassification and renumbering as this section, and to section 403–5c of this title prior to renumbering by Pub. L. 108–136, and to section 403–5b of this title prior to renumbering by Pub. L. 107–56.

PRIOR PROVISIONS

A prior section 702 of act July 26, 1947, ch. 343, title VII, as added Pub. L. 98–477, § 2(a), Oct. 15, 1984, 98 Stat. 2211; amended Pub. L. 108–136, div. A, title IX, § 922(b)(2)(A), Nov. 24, 2003, 117 Stat. 1573, was transferred to section 431 of this title and redesignated as subsec. (g) by Pub. L. 108–136, div. A, title IX, § 922(b)(2)(B), Nov. 24, 2003, 117 Stat. 1573. Section 431 of this title was editorially reclassified and renumbered as section 3141 of this title.

AMENDMENTS

2006—Subsec. (a)(3)(C)(vi). Pub. L. 109–163 added cl. (vi).

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(DD), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (a)(6)(B)(iv)(I). Pub. L. 108–375 substituted ''responsive records'' for ''responsible records''.

Subsec. (a)(6)(B)(viii). Pub. L. 108–458, § 1071(a)(1)(EE), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(FF), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

2003—Pub. L. 108–136, § 922(d)(1)(C), amended section catchline generally, substituting ''Operational files of the National Geospatial-Intelligence Agency'' for ''Protection of operational files of the National Imagery and Mapping Agency''.

Subsec. (a)(1). Pub. L. 108–136, § 921(e)(4)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in two places.

Subsec. (a)(2)(A). Pub. L. 108–136, § 921(e)(4)(A), (B), substituted ''NGA'' for ''NIMA'' wherever appearing and substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (a)(3)(C)(iv), (v), (6)(A), (B)(i), (iv)(I). Pub. L. 108–136, § 921(e)(4)(B), substituted ''NGA'' for ''NIMA''.

Subsec. (a)(6)(B)(iv)(II). Pub. L. 108–136, § 921(e)(4)(B), (C), substituted ''NGA'' for ''NIMA'' and ''NGA's'' for ''NIMA's''.

Subsec. (a)(6)(B)(vi), (vii). Pub. L. 108–136, § 921(e)(4)(B), substituted ''NGA'' for ''NIMA'' wherever appearing.

Subsec. (b)(1). Pub. L. 108–136, § 921(e)(4)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (b)(3). Pub. L. 108–136, § 921(e)(4)(B), substituted ''NGA'' for ''NIMA'' wherever appearing.

2002—Subsec. (a)(3)(C). Pub. L. 107–306 added cl. (i), redesignated cls. (iii) to (vi) as (ii) to (v), respectively, and struck out former cls. (i) and (ii) which read as follows:

''(i) The Permanent Select Committee on Intelligence of the House of Representatives.

''(ii) The Select Committee on Intelligence of the Senate.''

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

TREATMENT OF CERTAIN TRANSFERRED RECORDS

Pub. L. 106–120, title V, § 501(b), Dec. 3, 1999, 113 Stat. 1619, as amended by Pub. L. 108–136, div. A, title IX, § 921(g), Nov. 24, 2003, 117 Stat. 1570, provided that: ''Any record transferred to the National Geospatial-Intelligence Agency from exempted operational files of the Central Intelligence Agency covered by section 701(a) of the National Security Act of 1947 (50 U.S.C. 431(a)) [now 50 U.S.C. 3141(a)] shall be placed in the operational files of the National Geospatial-Intelligence Agency that are established pursuant to section 105B [now 702] of the National Security Act of 1947 [50 U.S.C. 3142], as added by subsection (a).''

§ 3143. Operational files of the National Reconnaissance Office

(a) Exemption of certain operational files from search, review, publication, or disclosure

(1) The Director of the National Reconnaissance Office, with the coordination of the Director of National Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5 which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ''operational files'' means files of the National Reconnaissance Office (hereafter in this section referred to as ''NRO'') that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5; or

(C) the specific subject matter of an investigation by any of the following for any impro-

priety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The Permanent Select Committee on Intelligence of the House of Representatives.

(ii) The Select Committee on Intelligence of the Senate.

(iii) The Intelligence Oversight Board.

(iv) The Department of Justice.

(v) The Office of General Counsel of NRO.

(vi) The Office of the Director of NRO.

(vii) The Office of the Inspector General of the NRO.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after November 27, 2002, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5 alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined ex parte, in camera by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of National Intelligence prior to submission to the court.

(b) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of National Intelligence shall review the exemptions in force under subsection (a)(1) of this section to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on November 27, 2002, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 703, formerly title I, § 105D, as added Pub. L. 107–306, title V, § 502(a), Nov. 27, 2002, 116 Stat. 2405; renumbered title VII, § 703, and amended Pub. L. 108–136, div. A, title IX, § 922(c), (d)(1)(D), Nov. 24, 2003, 117 Stat. 1573, 1574; Pub. L. 108–375, div. A, title X, § 1084(j), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 108–458, title I, § 1071(a)(1)(GG)–(II), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–163, div. A, title IX, § 933(b)(2), Jan. 6, 2006, 119 Stat. 3416.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(6)(B)(v), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 432a of this title prior to editorial reclassification and renumbering as this section, and to section 403–5e of this title prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2006—Subsec. (a)(3)(C)(vii). Pub. L. 109–163 added cl. (vii).

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(GG), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (a)(6)(B)(iv)(I). Pub. L. 108–375 substituted ''responsive records'' for ''responsible records''.

Subsec. (a)(6)(B)(viii). Pub. L. 108–458, § 1071(a)(1)(HH), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(II), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

2003—Pub. L. 108–136 substituted ''Operational files of the National Reconnaissance Office'' for ''Protection of operational files of the National Reconnaissance Office'' in section catchline.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3144. Operational files of the National Security Agency

(a) Exemption of certain operational files from search, review, publication, or disclosure

The Director of the National Security Agency, in coordination with the Director of National Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5 which require publication, disclosure, search, or review in connection therewith.

(b) Operational files defined

(1) In this section, the term ''operational files'' means—

(A) files of the Signals Intelligence Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

(B) files of the Research Associate Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(2) Files that are the sole repository of disseminated intelligence, and files that have been accessioned into the National Security Agency Archives (or any successor organization) are not operational files.

(c) Search and review for information

Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning any of the following:

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5.

(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5.

(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(C) The Intelligence Oversight Board.

(D) The Department of Justice.

(E) The Office of General Counsel of the National Security Agency.

(F) The Office of the Inspector General of the Department of Defense.

(G) The Office of the Director of the National Security Agency.

(H) The Office of the Inspector General of the National Security Agency.

(d) Information derived or disseminated from exempted operational files

(1) Files that are not exempted under subsection (a) of this section that contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(4) Records from exempted operational files that have been disseminated to and referenced

in files that are not exempted under subsection (a) of this section and that have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) Supersedure of other laws

The provisions of subsection (a) of this section may not be superseded except by a provision of law that is enacted after November 24, 2003, and that specifically cites and repeals or modifies such provisions.

(f) Allegation; improper withholding of records; judicial review

(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5 alleges that the National Security Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the National Security Agency, such information shall be examined ex parte, in camera by the court.

(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

(C) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the National Security Agency shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section.

(ii) The court may not order the National Security Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the National Security Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(E) In proceedings under subparagraphs (C) and (D), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(F) If the court finds under this subsection that the National Security Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (g) of this section).

(G) If at any time following the filing of a complaint pursuant to this paragraph the National Security Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

(g) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) of this section to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that the National Security Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the National Security Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on November 24, 2003, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the National Security Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, §704, as added Pub. L. 108–136, div. A, title IX, §922(a), Nov. 24, 2003, 117 Stat. 1570; amended Pub. L. 108–375, div. A, title X, §1084(j), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 108–458, title I, §1071(a)(1)(JJ)–(LL), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–163, div. A, title IX, §933(b)(3), Jan. 6, 2006, 119 Stat. 3416.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(2)(E), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 432b of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2006—Subsec. (c)(3)(H). Pub. L. 109–163 added subpar. (H).

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(JJ), which directed amendment of par. (1) of subsec. (a) by substituting ''Director of National Intelligence'' for ''Director of Central Intelligence'', was executed to text of subsec. (a), which does not contain any pars., to reflect the probable intent of Congress.

Subsec. (f)(2)(D)(i). Pub. L. 108–375 substituted ''responsive records'' for ''responsible records''.

Subsec. (f)(2)(H). Pub. L. 108–458, § 1071(a)(1)(KK), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (g)(1). Pub. L. 108–458, § 1071(a)(1)(LL), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3145. Omitted

Section, July 26, 1947, ch. 343, title VII, § 705, as added Pub. L. 109–163, div. A, title IX, § 933(a)(1), Jan. 6, 2006, 119 Stat. 3413; amended Pub. L. 111–259, title VIII, § 804(7), Oct. 7, 2010, 124 Stat. 2747, which provided that the Director of the Defense Intelligence Agency could exempt operational files of the Defense Intelligence Agency from provisions of section 552 of title 5, defined ''operational files'', authorized certain searches of exempted files and of information from exempted files, provided for judicial review of withholding of records and for decennial review of exempted files, ceased to be effective on Dec. 31, 2007, pursuant to subsec. (g) of section.

CODIFICATION

Section was formerly classified to section 432c of this title and omitted prior to editorial reclassification and renumbering as this section.

§ 3146. Protection of certain files of the Office of the Director of National Intelligence

(a) Inapplicability of FOIA to exempted operational files provided to ODNI

(1) Subject to paragraph (2), the provisions of section 552 of title 5 that require search, review, publication, or disclosure of a record shall not apply to a record provided to the Office of the Director of National Intelligence by an element of the intelligence community from the exempted operational files of such element.

(2) Paragraph (1) shall not apply with respect to a record of the Office that—

(A) contains information derived or disseminated from an exempted operational file, unless such record is created by the Office for the sole purpose of organizing such exempted operational file for use by the Office;

(B) is disseminated by the Office to a person other than an officer, employee, or contractor of the Office; or

(C) is no longer designated as an exempted operational file in accordance with this subchapter.

(b) Effect of providing files to ODNI

Notwithstanding any other provision of this subchapter, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of title 5 that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

(c) Search and review for certain purposes

Notwithstanding subsection (a) or (b), an exempted operational file shall continue to be subject to search and review for information concerning any of the following:

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5.

(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5.

(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

(A) The Select Committee on Intelligence of the Senate.

(B) The Permanent Select Committee on Intelligence of the House of Representatives.

(C) The Intelligence Oversight Board.

(D) The Department of Justice.

(E) The Office of the Director of National Intelligence.

(F) The Office of the Inspector General of the Intelligence Community.

(d) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on October 7, 2010, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the Director of National Intelligence, in fact, considered the criteria set

forth in paragraph (2) in conducting the required review.

(e) Supersedure of other laws

The provisions of this section may not be superseded except by a provision of law that is enacted after October 7, 2010, and that specifically cites and repeals or modifies such provisions.

(f) Allegation; improper withholding of records; judicial review

(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5 alleges that the Office has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such information shall be examined ex parte, in camera by the court.

(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office may meet the burden of the Office under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

(ii) The court may not order the Office to review the content of any exempted file in order to make the demonstration required under clause (i), unless the complainant disputes the Office's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36 of the Federal Rules of Civil Procedure.

(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review each appropriate exempted file for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 (commonly referred to as the Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section.

(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search each appropriate exempted file for the requested records, the court shall dismiss the claim based upon such complaint.

(g) Definitions

In this section:

(1) The term ''exempted operational file'' means a file of an element of the intelligence community that, in accordance with this subchapter, is exempted from the provisions of section 552 of title 5 that require search, review, publication, or disclosure of such file.

(2) Except as otherwise specifically provided, the term ''Office'' means the Office of the Director of National Intelligence.

(July 26, 1947, ch. 343, title VII, § 706, as added Pub. L. 111–259, title IV, § 408(a), Oct. 7, 2010, 124 Stat. 2722.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(2)(D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 432d of this title prior to editorial reclassification and renumbering as this section.

SUBCHAPTER VI—ACCESS TO CLASSIFIED INFORMATION

§ 3161. Procedures

(a) Not later than 180 days after October 14, 1994, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, travel records, and computers used in the performance of Government duties, as determined by the President, in accordance with section 3162 of this title, during the period of access to classified information and for a period of three years thereafter;

(4) provide that all employees in the executive branch of Government who require access

to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this subchapter are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

(b)(1) Subsection (a) of this section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed by subsection (a) of this section cannot be invoked in a manner that is consistent with the national security.

(2) Upon the exercise of such responsibility, the agency head shall submit a report to the congressional intelligence committees.

(July 26, 1947, ch. 343, title VIII, § 801, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3435; amended Pub. L. 106–120, title III, § 305(a), Dec. 3, 1999, 113 Stat. 1611; Pub. L. 107–306, title III, § 353(b)(2)(B), Nov. 27, 2002, 116 Stat. 2402.)

CODIFICATION

Section was formerly classified to section 435 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate''.

1999—Subsec. (a)(3). Pub. L. 106–120 substituted ''travel records, and computers used in the performance of Government duties'' for ''and travel records''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–120, title III, § 305(c), Dec. 3, 1999, 113 Stat. 1612, provided that: ''The President shall modify the procedures required by section 801(a)(3) of the National Security Act of 1947 [50 U.S.C. 3161(a)(3)] to take into account the amendment to that section made by subsection (a) of this section not later than 90 days after the date of the enactment of this Act [Dec. 3, 1999].''

EFFECTIVE DATE

Pub. L. 103–359, title VIII, § 802(c), Oct. 14, 1994, 108 Stat. 3438, provided that: ''The amendments made by subsections (a) and (b) [enacting this subchapter] shall take effect 180 days after the date of enactment of this Act [Oct. 14, 1994].''

CLASSIFICATION REVIEW OF EXECUTIVE BRANCH MATERIALS IN THE POSSESSION OF THE CONGRESSIONAL INTELLIGENCE COMMITTEES

Pub. L. 111–259, title VII, § 702, Oct. 7, 2010, 124 Stat. 2745, provided that: ''The Director of National Intelligence is authorized to conduct, at the request of one of the congressional intelligence committees and in accordance with procedures established by that committee, a classification review of materials in the possession of that committee that—

''(1) are not less than 25 years old; and

''(2) were created, or provided to that committee, by an entity in the executive branch.''

[For definition of ''congressional intelligence committees'' as used in section 702 of Pub. L. 111–259, set out above, see section 2 of Pub. L. 111–259, set out as a note under section 3003 of this title.]

PROMOTION OF ACCURATE CLASSIFICATION OF INFORMATION

Pub. L. 111–258, § 6, Oct. 7, 2010, 124 Stat. 2651, provided that:

''(a) INCENTIVES FOR ACCURATE CLASSIFICATIONS.—In making cash awards under chapter 45 of title 5, United States Code, the President or the head of an Executive agency with an officer or employee who is authorized to make original classification decisions or derivative classification decisions may consider such officer's or employee's consistent and proper classification of information.

''(b) INSPECTOR GENERAL EVALUATIONS.—

''(1) REQUIREMENT FOR EVALUATIONS.—Not later than September 30, 2016, the inspector general of each department or agency of the United States with an officer or employee who is authorized to make original classifications, in consultation with the Information Security Oversight Office, shall carry out no less than two evaluations of that department or agency or a component of the department or agency—

''(A) to assess whether applicable classification policies, procedures, rules, and regulations have been adopted, followed, and effectively administered within such department, agency, or component; and

''(B) to identify policies, procedures, rules, regulations, or management practices that may be contributing to persistent misclassification of material within such department, agency or component.

''(2) DEADLINES FOR EVALUATIONS.—

''(A) INITIAL EVALUATIONS.—Each first evaluation required by paragraph (1) shall be completed no later than September 30, 2013.

''(B) SECOND EVALUATIONS.—Each second evaluation required by paragraph (1) shall review progress made pursuant to the results of the first evaluation and shall be completed no later than September 30, 2016.

''(3) REPORTS.—

''(A) REQUIREMENT.—Each inspector general who is required to carry out an evaluation under paragraph (1) shall submit to the appropriate entities a report on each such evaluation.

''(B) CONTENT.—Each report submitted under subparagraph (A) shall include a description of—

''(i) the policies, procedures, rules, regulations, or management practices, if any, identified by the inspector general under paragraph (1)(B); and

''(ii) the recommendations, if any, of the inspector general to address any such identified policies, procedures, rules, regulations, or management practices.

''(C) COORDINATION.—The inspectors general who are required to carry out evaluations under paragraph (1) shall coordinate with each other and with the Information Security Oversight Office to ensure that evaluations follow a consistent methodology,

as appropriate, that allows for cross-agency comparisons.

''(4) APPROPRIATE ENTITIES DEFINED.—In this subsection, the term 'appropriate entities' means—

''(A) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate;

''(B) the Committee on Homeland Security, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives;

''(C) any other committee of Congress with jurisdiction over a department or agency referred to in paragraph (1);

''(D) the head of a department or agency referred to in paragraph (1); and

''(E) the Director of the Information Security Oversight Office.''

[For definitions of terms used in section 6 of Pub. L. 111–258, set out above, see section 3 of Pub. L. 111–258, set out as a note under section 3344 of this title.]

DECLASSIFICATION OF INFORMATION

Pub. L. 106–567, title VII, Dec. 27, 2000, 114 Stat. 2856, as amended by Pub. L. 108–458, title I, §1102, Dec. 17, 2004, 118 Stat. 3699; Pub. L. 110–53, title VI, §602, Aug. 3, 2007, 121 Stat. 335; Pub. L. 111–259, title III, §365, Oct. 7, 2010, 124 Stat. 2702; Pub. L. 112–235, §2, Dec. 28, 2012, 126 Stat. 1626; Pub. L. 113–126, title III, §311, July 7, 2014, 128 Stat. 1399, provided that:

''SEC. 701. SHORT TITLE.

''This title may be cited as the 'Public Interest Declassification Act of 2000'.

''SEC. 702. FINDINGS.

''Congress makes the following findings:

''(1) It is in the national interest to establish an effective, coordinated, and cost-effective means by which records on specific subjects of extraordinary public interest that do not undermine the national security interests of the United States may be collected, retained, reviewed, and disseminated to Congress, policymakers in the executive branch, and the public.

''(2) Ensuring, through such measures, public access to information that does not require continued protection to maintain the national security interests of the United States is a key to striking the balance between secrecy essential to national security and the openness that is central to the proper functioning of the political institutions of the United States.

''SEC. 703. PUBLIC INTEREST DECLASSIFICATION BOARD.

''(a) ESTABLISHMENT.—(1) There is established within the executive branch of the United States a board to be known as the 'Public Interest Declassification Board' (in this title referred to as the 'Board').

''(2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official authorized to classify information under Executive Order 12958 [formerly set out below], or any successor order.

''(b) PURPOSES.—The purposes of the Board are as follows:

''(1) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on the systematic, thorough, coordinated, and comprehensive identification, collection, review for declassification, and release to Congress, interested agencies, and the public of declassified records and materials (including donated historical materials) that are of archival value, including records and materials of extraordinary public interest.

''(2) To promote the fullest possible public access to a thorough, accurate, and reliable documentary record of significant United States national security decisions and significant United States national security activities in order to—

''(A) support the oversight and legislative functions of Congress;

''(B) support the policymaking role of the executive branch;

''(C) respond to the interest of the public in national security matters; and

''(D) promote reliable historical analysis and new avenues of historical study in national security matters.

''(3) To provide recommendations to the President for the identification, collection, and review for declassification of information of extraordinary public interest that does not undermine the national security of the United States, to be undertaken in accordance with a declassification program that has been established or may be established by the President by Executive order.

''(4) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on policies deriving from the issuance by the President of Executive orders regarding the classification and declassification of national security information.

''(5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction or by a member of the committee of jurisdiction, to declassify certain records, to evaluate the proper classification of certain records, or to reconsider a declination to declassify specific records.

''(c) MEMBERSHIP.—(1) The Board shall be composed of nine individuals appointed from among citizens of the United States who are preeminent in the fields of history, national security, foreign policy, intelligence policy, social science, law, or archives, including individuals who have served in Congress or otherwise in the Federal Government or have otherwise engaged in research, scholarship, or publication in such fields on matters relating to the national security of the United States, of whom—

''(A) five shall be appointed by the President;

''(B) one shall be appointed by the Speaker of the House of Representatives;

''(C) one shall be appointed by the majority leader of the Senate;

''(D) one shall be appointed by the minority leader of the Senate; and

''(E) one shall be appointed by the minority leader of the House of Representatives.

''(2)(A) Of the members initially appointed to the Board by the President—

''(i) three shall be appointed for a term of 4 years;

''(ii) one shall be appointed for a term of 3 years; and

''(iii) one shall be appointed for a term of 2 years.

''(B) The members initially appointed to the Board by the Speaker of the House of Representatives or by the majority leader of the Senate shall be appointed for a term of 3 years.

''(C) The members initially appointed to the Board by the minority leader of the House of Representatives or the Senate shall be appointed for a term of 2 years.

''(D) Any subsequent appointment to the Board shall be for a term of 3 years from the date of the appointment.

''(3) A vacancy in the Board shall be filled in the same manner as the original appointment.

''(4) A member of the Board may be appointed to a new term on the Board upon the expiration of the member's term on the Board, except that no member may serve more than three full terms on the Board.

''(d) CHAIRPERSON; EXECUTIVE SECRETARY.—(1)(A) The President shall designate one of the members of the Board as the Chairperson of the Board.

''(B) The term of service as Chairperson of the Board shall be 2 years.

''(C) A member serving as Chairperson of the Board may be redesignated as Chairperson of the Board upon the expiration of the member's term as Chairperson of the Board, except that no member shall serve as Chairperson of the Board for more than 6 years.

''(2) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Board.

''(e) MEETINGS.—The Board shall meet as needed to accomplish its mission, consistent with the availability of funds. A majority of the members of the Board shall constitute a quorum.

''(f) STAFF.—Any employee of the Federal Government may be detailed to the Board, with the agreement of and without reimbursement to the detailing agency, and such detail shall be without interruption or loss of civil, military, or foreign service status or privilege.

''(g) SECURITY.—(1) The members and staff of the Board shall, as a condition of appointment to or employment with the Board, hold appropriate security clearances for access to the classified records and materials to be reviewed by the Board or its staff, and shall follow the guidance and practices on security under applicable Executive orders and Presidential or agency directives.

''(2) The head of an agency shall, as a condition of granting access to a member of the Board, the Executive Secretary of the Board, or a member of the staff of the Board to classified records or materials of the agency under this title, require the member, the Executive Secretary, or the member of the staff, as the case may be, to—

''(A) execute an agreement regarding the security of such records or materials that is approved by the head of the agency; and

''(B) hold an appropriate security clearance granted or recognized under the standard procedures and eligibility criteria of the agency, including any special access approval required for access to such records or materials.

''(3) The members of the Board, the Executive Secretary of the Board, and the members of the staff of the Board may not use any information acquired in the course of their official activities on the Board for nonofficial purposes.

''(4) For purposes of any law or regulation governing access to classified information that pertains to the national security of the United States, and subject to any limitations on access arising under section 706(b), and to facilitate the advisory functions of the Board under this title, a member of the Board seeking access to a record or material under this title shall be deemed for purposes of this subsection to have a need to know the contents of the record or material.

''(h) COMPENSATION.—(1) Each member of the Board shall receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for positions at ES–1 of the Senior Executive Service under section 5382 of title 5, United States Code, for each day such member is engaged in the actual performance of duties of the Board.

''(2) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the duties of the Board.

''(i) GUIDANCE; ANNUAL BUDGET.—(1) On behalf of the President, the Assistant to the President for National Security Affairs shall provide guidance on policy to the Board.

''(2) The Executive Secretary of the Board, under the direction of the Chairperson of the Board and the Board, and acting in consultation with the Archivist of the United States, the Assistant to the President for National Security Affairs, and the Director of the Office of Management and Budget, shall prepare the annual budget of the Board.

''(j) SUPPORT.—The Information Security Oversight Office may support the activities of the Board under this title. Such support shall be provided on a reimbursable basis.

''(k) PUBLIC AVAILABILITY OF RECORDS AND REPORTS.—(1) The Board shall make available for public inspection records of its proceedings and reports prepared in the course of its activities under this title to the extent such records and reports are not classified and would not be exempt from release under the provisions of section 552 of title 5, United States Code.

''(2) In making records and reports available under paragraph (1), the Board shall coordinate the release of such records and reports with appropriate officials from agencies with expertise in classified information in order to ensure that such records and reports do not inadvertently contain classified information.

''(*l*) APPLICABILITY OF CERTAIN ADMINISTRATIVE LAWS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Board under this title. However, the records of the Board shall be governed by the provisions of the Federal Records Act of 1950 [see References in Text note under section 450j of Title 25, Indians].

''SEC. 704. IDENTIFICATION, COLLECTION, AND REVIEW FOR DECLASSIFICATION OF INFORMATION OF ARCHIVAL VALUE OR EXTRAORDINARY PUBLIC INTEREST.

''(a) BRIEFINGS ON AGENCY DECLASSIFICATION PROGRAMS.—(1) As requested by the Board, or by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, the head of any agency with the authority under an Executive order to classify information shall provide to the Board, the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, on an annual basis, a summary briefing and report on such agency's progress and plans in the declassification of national security information. Such briefing shall cover the declassification goals set by statute, regulation, or policy, the agency's progress with respect to such goals, and the agency's planned goals and priorities for its declassification activities over the next 2 fiscal years. Agency briefings and reports shall give particular attention to progress on the declassification of records and materials that are of archival value or extraordinary public interest to the people of the United States.

''(2)(A) The annual briefing and report under paragraph (1) for agencies within the Department of Defense, including the military departments and the elements of the intelligence community, shall be provided on a consolidated basis.

''(B) In this paragraph, the term 'elements of the intelligence community' means the elements of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].

''(b) RECOMMENDATIONS ON AGENCY DECLASSIFICATION PROGRAMS.—(1) Upon reviewing and discussing declassification plans and progress with an agency, the Board shall provide to the head of the agency the written recommendations of the Board as to how the agency's declassification program could be improved. A copy of each recommendation shall also be submitted to the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget.

''(2) Consistent with the provisions of section 703(k), the Board's recommendations to the head of an agency under paragraph (1) shall become public 60 days after such recommendations are sent to the head of the agency under that paragraph.

''(c) RECOMMENDATIONS ON SPECIAL SEARCHES FOR RECORDS OF EXTRAORDINARY PUBLIC INTEREST.—(1) The Board shall also make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest.

''(2) In making recommendations under paragraph (1), the Board shall consider the following:

''(A) The opinions and requests of Members of Congress, including opinions and requests expressed or embodied in letters or legislative proposals, and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records.

''(B) The opinions and requests of the National Security Council, the Director of National Intelligence, and the heads of other agencies.

''(C) The opinions of United States citizens.

''(D) The opinions of members of the Board.

''(E) The impact of special searches on systematic and all other on-going declassification programs.

''(F) The costs (including budgetary costs) and the impact that complying with the recommendations would have on agency budgets, programs, and operations.

''(G) The benefits of the recommendations.

''(H) The impact of compliance with the recommendations on the national security of the United States.

''(d) PRESIDENT'S DECLASSIFICATION PRIORITIES.—(1) Concurrent with the submission to Congress of the budget of the President each fiscal year under section 1105 of title 31, United States Code, the Director of the Office of Management and Budget shall publish a description of the President's declassification program and priorities, together with a listing of the funds requested to implement that program.

''(2) Nothing in this title shall be construed to substitute or supersede, or establish a funding process for, any declassification program that has been established or may be established by the President by Executive order.

''(e) DECLASSIFICATION REVIEWS.—(1) IN GENERAL.—If requested by the President, the Board shall review in a timely manner certain records or declinations to declassify specific records, the declassification of which has been the subject of specific congressional request described in section 703(b)(5).

''(2) AUTHORITY OF BOARD.—Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

''(3) REPORTING.—Any recommendations submitted to the President by the Board under section 703(b)(5),[sic] shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.

''SEC. 705. PROTECTION OF NATIONAL SECURITY INFORMATION AND OTHER INFORMATION.

''(a) IN GENERAL.—Nothing in this title shall be construed to limit the authority of the head of an agency to classify information or to continue the classification of information previously classified by that agency.

''(b) SPECIAL ACCESS PROGRAMS.—Nothing in this title shall be construed to limit the authority of the head of an agency to grant or deny access to a special access program.

''(c) AUTHORITIES OF DIRECTOR OF NATIONAL INTELLIGENCE.—Nothing in this title shall be construed to limit the authorities of the Director of National Intelligence as the head of the intelligence community, including the Director's responsibility to protect intelligence sources and methods from unauthorized disclosure as required by section 103(c)(6) of the National Security Act of 1947 ([former] 50 U.S.C. 403–3(c)(6)) [see 50 U.S.C. 3024(i)].

''(d) EXEMPTIONS TO RELEASE OF INFORMATION.—Nothing in this title shall be construed to limit any exemption or exception to the release to the public under this title of information that is protected under subsection (b) of section 552 of title 5, United States Code (commonly referred to as the 'Freedom of Information Act'), or section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act').

''(e) WITHHOLDING INFORMATION FROM CONGRESS.—Nothing in this title shall be construed to authorize the withholding of information from Congress.

''SEC. 706. STANDARDS AND PROCEDURES.

''(a) LIAISON.—(1) The head of each agency with the authority under an Executive order to classify information and the head of each Federal Presidential library shall designate an employee of such agency or library to act as liaison to the Board for purposes of this title.

''(2) The Board may establish liaison and otherwise consult with such other historical and advisory committees as the Board considers appropriate for purposes of this title.

''(b) LIMITATIONS ON ACCESS.—(1)(A) Except as provided in paragraph (2), if the head of an agency or the head of a Federal Presidential library determines it necessary to deny or restrict access of the Board, or of the agency or library liaison to the Board, to information contained in a record or material, in whole or in part, the head of the agency or the head of the library shall promptly notify the Board in writing of such determination.

''(B) Each notice to the Board under subparagraph (A) shall include a description of the nature of the records or materials, and a justification for the determination, covered by such notice.

''(2) In the case of a determination referred to in paragraph (1) with respect to a special access program created by the Secretary of Defense, the Director of National Intelligence, or the head of any other agency, the notification of denial of access under paragraph (1), including a description of the nature of the Board's request for access, shall be submitted to the Assistant to the President for National Security Affairs rather than to the Board.

''(c) DISCRETION TO DISCLOSE.—At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the public's interest in the disclosure of records or materials of the agency covered by such review, and still properly classified, outweighs the Government's need to protect such records or materials, and may release such records or materials in accordance with the provisions of Executive Order No. 12958 [formerly set out below] or any successor order to such Executive order.

''(d) DISCRETION TO PROTECT.—At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the interest of the agency in the protection of records or materials of the agency covered by such review, and still properly classified, outweighs the public's need for access to such records or materials, and may deny release of such records or materials in accordance with the provisions of Executive Order No. 12958 or any successor order to such Executive order.

''(e) REPORTS.—(1)(A) Except as provided in paragraph (2), the Board shall annually submit to the appropriate congressional committees a report on the activities of the Board under this title, including summary information regarding any denials to the Board by the head of an agency or the head of a Federal Presidential library of access to records or materials under this title.

''(B) In this paragraph, the term 'appropriate congressional committees' means the Select Committee on Intelligence and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives.

''(2) Notwithstanding paragraph (1), notice that the Board has been denied access to records and materials, and a justification for the determination in support of the denial, shall be submitted by the agency denying the access as follows:

''(A) In the case of the denial of access to a special access program created by the Secretary of Defense,

to the Committees on Armed Services and Appropriations of the Senate and to the Committees on Armed Services and Appropriations of the House of Representatives.

''(B) In the case of the denial of access to a special access program created by the Director of National Intelligence, or by the head of any other agency (including the Department of Defense) if the special access program pertains to intelligence activities, or of access to any information and materials relating to intelligence sources and methods, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

''(C) In the case of the denial of access to a special access program created by the Secretary of Energy or the Administrator for Nuclear Security, to the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate and to the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

''(f) NOTIFICATION OF REVIEW.—In response to a specific congressional request for declassification review described in section 703(b)(5), the Board shall advise the originators of the request in a timely manner whether the Board intends to conduct such review.

''SEC. 707. JUDICIAL REVIEW.

''Nothing in this title limits the protection afforded to any information under any other provision of law. This title is not intended and may not be construed to create any right or benefit, substantive or procedural, enforceable against the United States, its agencies, its officers, or its employees. This title does not modify in any way the substantive criteria or procedures for the classification of information, nor does this title create any right or benefit subject to judicial review.

''SEC. 708. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to carry out the provisions of this title amounts as follows:

''(1) For fiscal year 2001, $650,000.

''(2) For each fiscal year after fiscal year 2001, such sums as may be necessary for such fiscal year.

''(b) FUNDING REQUESTS.—The President shall include in the budget submitted to Congress for each fiscal year under section 1105 of title 31, United States Code, a request for amounts for the activities of the Board under this title during such fiscal year.

''SEC. 709. DEFINITIONS.

''In this title:

''(1) AGENCY.—(A) Except as provided in subparagraph (B), the term 'agency' means the following:

''(i) An Executive agency, as that term is defined in section 105 of title 5, United States Code.

''(ii) A military department, as that term is defined in section 102 of such title.

''(iii) Any other entity in the executive branch that comes into the possession of classified information.

''(B) The term does not include the Board.

''(2) CLASSIFIED MATERIAL OR RECORD.—The terms 'classified material' and 'classified record' include any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, videotape, machine readable records, and other documentary material, regardless of physical form or characteristics, that has been determined pursuant to Executive order to require protection against unauthorized disclosure in the interests of the national security of the United States.

''(3) DECLASSIFICATION.—The term 'declassification' means the process by which records or materials that have been classified are determined no longer to require protection from unauthorized disclosure to protect the national security of the United States.

''(4) DONATED HISTORICAL MATERIAL.—The term 'donated historical material' means collections of personal papers donated or given to a Federal Presidential library or other archival repository under a deed of gift or otherwise.

''(5) FEDERAL PRESIDENTIAL LIBRARY.—The term 'Federal Presidential library' means a library operated and maintained by the United States Government through the National Archives and Records Administration under the applicable provisions of the Federal Records Act of 1950 [see References in Text note under section 450j of Title 25, Indians].

''(6) NATIONAL SECURITY.—The term 'national security' means the national defense or foreign relations of the United States.

''(7) RECORDS OR MATERIALS OF EXTRAORDINARY PUBLIC INTEREST.—The term 'records or materials of extraordinary public interest' means records or materials that—

''(A) demonstrate and record the national security policies, actions, and decisions of the United States, including—

''(i) policies, events, actions, and decisions which led to significant national security outcomes; and

''(ii) the development and evolution of significant United States national security policies, actions, and decisions;

''(B) will provide a significantly different perspective in general from records and materials publicly available in other historical sources; and

''(C) would need to be addressed through ad hoc record searches outside any systematic declassification program established under Executive order.

''(8) RECORDS OF ARCHIVAL VALUE.—The term 'records of archival value' means records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government.

''SEC. 710. EFFECTIVE DATE; SUNSET.

''(a) EFFECTIVE DATE.—This title shall take effect on the date that is 120 days after the date of the enactment of this Act [Dec. 27, 2000].

''(b) SUNSET.—The provisions of this title shall expire on December 31, 2018.''

CERTIFICATION AND REPORT RELATED TO AUTOMATIC DECLASSIFICATION OF DEPARTMENT OF DEFENSE RECORDS

Pub. L. 106–65, div. A, title X, § 1041(c), (d), Oct. 5, 1999, 113 Stat. 758, provided that:

''(c) CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS.—No records of the Department of Defense that have not been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Defense certifies to Congress that such declassification would not harm the national security.

''(d) REPORT ON AUTOMATIC DECLASSIFICATION OF DEPARTMENT OF DEFENSE RECORDS.—Not later than February 1, 2001, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report on the efforts of the Department of Defense relating to the declassification of classified records under the control of the Department of Defense. Such report shall include the following:

''(1) An assessment of whether the Department will be able to review all relevant records for declassification before any date established for automatic declassification.

''(2) An estimate of the cost of reviewing records to meet any requirement to review all relevant records for declassification by a date established for automatic declassification.

''(3) An estimate of the number of records, if any, that the Department will be unable to review for declassification before any such date and the affect [sic] on national security of the automatic declassification of those records.

''(4) An estimate of the length of time by which any such date would need to be extended to avoid the automatic declassification of records that have not yet been reviewed as of such date.''

SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA

Pub. L. 106–65, div. C, title XXXI, §3149, Oct. 5, 1999, 113 Stat. 938, which was formerly set out as a note under this section, was renumbered section 4523 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(h)(13)(A)–(C), Nov. 24, 2003, 117 Stat. 1775, and is classified to section 2673 of this title.

IDENTIFICATION IN BUDGET MATERIALS OF AMOUNTS FOR DECLASSIFICATION ACTIVITIES AND LIMITATION ON EXPENDITURES FOR SUCH ACTIVITIES

Pub. L. 106–65, div. C, title XXXI, §3173, Oct. 5, 1999, 113 Stat. 949, which was formerly set out as a note under this section, was renumbered section 4525 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(h)(15)(A)–(C), Nov. 24, 2003, 117 Stat. 1775, and is classified to section 2675 of this title.

PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA

Pub. L. 105–261, div. C, title XXXI, §3161, Oct. 17, 1998, 112 Stat. 2259, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [div. C, title XXXI, §3193(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–480, which was formerly set out as a note under this section, was renumbered section 4522 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(h)(12)(A)–(C), Nov. 24, 2003, 117 Stat. 1774, and is classified to section 2672 of this title.

VOLUNTARY SERVICE PROGRAM

Pub. L. 104–93, title IV, §402, Jan. 6, 1996, 109 Stat. 969, authorized the Director of Central Intelligence to establish and maintain a program from fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 annuitants who served without compensation as volunteers in aid of the review for declassification or downgrading of classified information by the Central Intelligence Agency under applicable Executive orders governing the classification and declassification of national security information and Pub. L. 102–526 (44 U.S.C. 2107 note).

COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Pub. L. 103–236, title IX, Apr. 30, 1994, 108 Stat. 525, known as the ''Protection and Reduction of Government Secrecy Act'', established for a two-year period a Commission on Protecting and Reducing Government Secrecy to conduct an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances and to submit to the Congress a final report containing such recommendations not later than two years after the date of the first meeting of the Commission and terminated Commission 60 days after the date on which a final report is submitted (final report submitted on Mar. 3, 1997).

DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF COLD WAR, KOREAN CONFLICT, AND VIETNAM ERA

Pub. L. 102–190, div. A, title X, §1082, Dec. 5, 1991, 105 Stat. 1480, as amended by Pub. L. 103–337, div. A, title X, §1036, Oct. 5, 1994, 108 Stat. 2841; Pub. L. 104–106, div. A, title X, §1085, Feb. 10, 1996, 110 Stat. 457, provided that:

''(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

''(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

''(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

''(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

''(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

''(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

''(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

''(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family members of that person determined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

''(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located by the Secretary of Defense—

''(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

''(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs.

''(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

''(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

''(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than January 2, 1996. Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

''(2) Whenever a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance

with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

''(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity, then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

''(2) The term 'Cold War' means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

''(3) The term 'official custodian' means—

''(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

''(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.''

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

Pub. L. 100–453, title IV, § 404, Sept. 29, 1988, 102 Stat. 1908, provided that:

''(a) This section is enacted to ensure that current disclosure policy is incorporated into law.

''(b) Except as provided in subsection (c), the head of each department or agency—

''(1) with respect to which funds are authorized under this Act [see Tables for classification], and

''(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict,

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

''(c) Subsection (b) does not apply with respect to—

''(1) information that would reveal or compromise sources and methods of intelligence collection; or

''(2) specific information that previously has been made available to the next-of-kin.

''(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.''

EXECUTIVE ORDER NO. 10501

Ex. Ord. No. 10501, Nov. 5, 1953, 18 F.R. 7049, as amended by Ex. Ord. No. 10816, May 7, 1959, 24 F.R. 3777; Ex. Ord. No. 10901, Jan. 9, 1961, 26 F.R. 217; Ex. Ord. No. 10964, Sept. 20, 1961, 26 F.R. 8932; Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439; Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EX. ORD. NO. 10865. SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended by Ex. Ord. No. 10909, Jan. 17, 1961, 26 F.R. 508; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12829, § 203(g), Jan. 6, 1993, 58 F.R. 3479; Ex. Ord. No. 13284, § 15, Jan. 23, 2003, 68 F.R. 4076, provided:

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interest of individuals affected thereby and provide maximum possible safeguards to protect such interests:

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. When used in this order, the term ''head of a department'' means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Secretary of Homeland Security, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term ''head of a department'' also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829 [set out below].

SEC. 2. An authorization for access to classified information pursuant to Executive Order No. 12829 [set out below] may be granted by the head of a department or his designee, including but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an ''applicant'', for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SEC. 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked pursuant to Executive Order No. 12829 [set out below] by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee including, but not limited to, those officials named in section 8 of this order for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

SEC. 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement

may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 6. The head of a department of the United States or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SEC. 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SEC. 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the the [sic] deputy of that department, or the principal assistant to the head of that department, as the case may be.

SEC. 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

MODIFICATION OF EXECUTIVE ORDER NO. 10865

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out under section 7151 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10985

Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439, which amended Executive Order No. 10501, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EXECUTIVE ORDER NO. 11097

Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225, which amended Executive Order No. 10501, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EXECUTIVE ORDER NO. 11652

Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, as amended by Ex. Ord. No. 11714, Apr. 24, 1973, 38 F.R. 10245; Ex. Ord. No. 11862, June 11, 1975, 40 F.R. 25197; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, which related to the classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, formerly set out below.

EX. ORD. NO. 11932. CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL OBTAINED FROM ADVISORY BODIES CREATED TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Ex. Ord. No. 11932, Aug. 4, 1976, 41 F.R. 32691, provided:

The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency. This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the International Energy Agency. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies. I have consulted with the Secretary of State, the Attorney General and the Administrator of the Federal Energy Administration concerning the handling and safeguarding of information and material in the possession of the United States which has been obtained pursuant to the program, and I find that some of such information and material requires protection as provided in Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above].

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above]. The Secretary of State shall have the responsibility for the classification, declassification and safeguarding of information and material in the possession of the United States Government which has been obtained pursuant to:

(a) Section 252(c)(3), (d)(2), or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871; 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or

(b) The Voluntary Agreement and Program relating to the International Energy Program (40 F.R. 16041, April 8, 1975), or

(c) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] after the date of this Order.

SEC. 2. Information or material classified pursuant to Section 1 of this Order may be exempted from the General Declassification Schedule established by Section 5 of Executive Order No. 11652 [formerly set out above] if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be exempted under Section 5(B) of such Order.

SEC. 3. (a) Within 60 days of the date of this Order, the Secretary of State shall promulgate regulations which implement his responsibilities under this Order.

(b) The directives issued under Section 6 of Executive Order No. 11652 [formerly set out above] shall not apply to information and material classified under this Order. However, the regulations promulgated by the Secretary of State shall:

(1) conform, to the extent practicable, to the policies set forth in Section 6 of Executive Order No. 11652 [formerly set out above], and

(2) provide that he may take such measures as he deems necessary and appropriate to ensure the confidentiality of any information and material classified under this Order that may remain in the custody or control of any person outside the United States Government.

GERALD R. FORD.

EXECUTIVE ORDER NO. 12065

Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, which related to classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, formerly set out below.

EXECUTIVE ORDER NO. 12356

Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, which prescribed a uniform system for classifying, declassifying, and safeguarding national security information, was revoked by Ex. Ord. No. 12958, § 6.1(d), Apr. 17, 1995, 60 F.R. 19843, formerly set out below.

EX. ORD. NO. 12812. DECLASSIFICATION AND RELEASE OF MATERIALS PERTAINING TO PRISONERS OF WAR AND MISSING IN ACTION

Ex. Ord. No. 12812, July 22, 1992, 57 F.R. 32879, provided:

WHEREAS, the Senate, by S. Res. 324 of July 2, 1992, has asked that I ''expeditiously issue an Executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs;'' and

WHEREAS, indiscriminate release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs; and

WHEREAS, I have concluded that the public interest would be served by the declassification and public release of materials pertaining to Vietnam-era POWs and MIAs as provided below;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356 [formerly set out above].

SEC. 2. All executive departments and agencies shall make publicly available documents, files, and other materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.

SEC. 3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH.

EX. ORD. NO. 12829. NATIONAL INDUSTRIAL SECURITY PROGRAM

Ex. Ord. No. 12829, Jan. 6, 1993, 58 F.R. 3479, as amended by Ex. Ord. No. 12885, Dec. 14, 1993, 58 F.R. 65863, provided:

This order establishes a National Industrial Security Program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. To promote our national interests, the United States Government issues contracts, licenses, and grants to nongovernment organizations. When these arrangements require access to classified information, the national security requires that this information be safeguarded in a manner equivalent to its protection within the executive branch of Government. The national security also requires that our industrial security program promote the economic and technological interests of the United States. Redundant, overlapping, or unnecessary requirements impede those interests. Therefore, the National Industrial Security Program shall serve as a

single, integrated, cohesive industrial security program to protect classified information and to preserve our Nation's economic and technological interests.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2286) [42 U.S.C. 2011 et seq.], the National Security Act of 1947, as amended (codified as amended in scattered sections of the United States Code) [50 U.S.C. 3001 et seq.], and the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2) [5 U.S.C. App.], it is hereby ordered as follows:

PART 1. ESTABLISHMENT AND POLICY

SECTION 101. *Establishment*. (a) There is established a National Industrial Security Program. The purpose of this program is to safeguard classified information that may be released or has been released to current, prospective, or former contractors, licensees, or grantees of United States agencies. For the purposes of this order, the terms ''contractor, licensee, or grantee'' means current, prospective, or former contractors, licensees, or grantees of United States agencies. The National Industrial Security Program shall be applicable to all executive branch departments and agencies.

(b) The National Industrial Security Program shall provide for the protection of information classified pursuant to Executive Order No. 12356 of April 2, 1982 [formerly set out above], or its successor, and the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) For the purposes of this order, the term ''contractor'' does not include individuals engaged under personal services contracts.

SEC. 102. *Policy Direction*. (a) The National Security Council shall provide overall policy direction for the National Industrial Security Program.

(b) The Director of the Information Security Oversight Office, established under Executive Order No. 12356 of April 2, 1982 [formerly set out above], shall be responsible for implementing and monitoring the National Industrial Security Program and shall:

(1) develop, in consultation with the agencies, and promulgate subject to the approval of the National Security Council, directives for the implementation of this order, which shall be binding on the agencies;

(2) oversee agency, contractor, licensee, and grantee actions to ensure compliance with this order and implementing directives;

(3) review all agency implementing regulations, internal rules, or guidelines. The Director shall require any regulation, rule, or guideline to be changed if it is not consistent with this order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation, rule, or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority, pursuant to terms of applicable contracts, licenses, grants, or regulations, to conduct on-site reviews of the implementation of the National Industrial Security Program by each agency, contractor, licensee, and grantee that has access to or stores classified information and to require of each agency, contractor, licensee, and grantee those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific classified information, or other forms of cooperation, would pose an exceptional national security risk, the affected agency head or the senior official designated under section 203(a) of this order may request the National Security Council to deny access to the Director. The Director shall not have access pending a prompt decision by the National Security Council;

(5) report any violations of this order or its implementing directives to the head of the agency or to the senior official designated under section 203(a) of this order so that corrective action, if appropriate, may be taken. Any such report pertaining to the implementation of the National Industrial Security Program by a contractor, licensee, or grantee shall be directed to the agency that is exercising operational oversight over the contractor, licensee, or grantee under section 202 of this order;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the National Industrial Security Program;

(7) consider, in consultation with the advisory committee established by this order, affected agencies, contractors, licensees, and grantees, and recommend to the President through the National Security Council changes to this order; and

(8) report at least annually to the President through the National Security Council on the implementation of the National Industrial Security Program.

(c) Nothing in this order shall be construed to supersede the authority of the Secretary of Energy or the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], or the authority of the Director of Central Intelligence under the National Security Act of 1947, as amended [50 U.S.C. 3001 et seq.], or Executive Order No. 12333 of December 8, 1981 [50 U.S.C. 3001 note].

SEC. 103. *National Industrial Security Program Policy Advisory Committee*. (a) *Establishment*. There is established the National Industrial Security Program Policy Advisory Committee (''Committee''). The Director of the Information Security Oversight Office shall serve as Chairman of the Committee and appoint the members of the Committee. The members of the Committee shall be the representatives of those departments and agencies most affected by the National Industrial Security Program and nongovernment representatives of contractors, licensees, or grantees involved with classified contracts, licenses, or grants, as determined by the Chairman.

(b) *Functions*. (1) The Committee members shall advise the Chairman of the Committee on all matters concerning the policies of the National Industrial Security Program, including recommended changes to those policies as reflected in this order, its implementing directives, or the operating manual established under this order, and serve as a forum to discuss policy issues in dispute.

(2) The Committee shall meet at the request of the Chairman, but at least twice during the calendar year.

(c) *Administration*. (1) Members of the Committee shall serve without compensation for their work on the Committee. However, nongovernment members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(2) To the extent permitted by law and subject to the availability of funds, the Administrator of General Services shall provide the Committee with administrative services, facilities, staff, and other support services necessary for the performance of its functions.

(d) *General*. Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 U.S.C. App.], except that of reporting to the Congress, which are applicable to the Committee, shall be performed by the Administrator of General Services in accordance with the guidelines and procedures established by the General Services Administration.

PART 2. OPERATIONS

SEC. 201. *National Industrial Security Program Operating Manual*. (a) The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence, shall issue and maintain a National Industrial Security Program Operating Manual (''Manual''). The Secretary of Energy and the Nuclear Regulatory Commission shall prescribe and issue that portion of the Manual that pertains to information classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The Director of Central Intelligence shall

prescribe and issue that portion of the Manual that pertains to intelligence sources and methods, including Sensitive Compartmented Information.

(b) The Manual shall prescribe specific requirements, restrictions, and other safeguards that are necessary to preclude unauthorized disclosure and control authorized disclosure of classified information to contractors, licensees, or grantees. The Manual shall apply to the release of classified information during all phases of the contracting process including bidding, negotiation, award, performance, and termination of contracts, the licensing process, or the grant process, with or under the control of departments or agencies.

(c) The Manual shall also prescribe requirements, restrictions, and other safeguards that are necessary to protect special classes of classified information, including Restricted Data, Formerly Restricted Data, intelligence sources and methods information, Sensitive Compartmented Information, and Special Access Program information.

(d) In establishing particular requirements, restrictions, and other safeguards within the Manual, the Secretary of Defense, the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence shall take into account these factors: (i) the damage to the national security that reasonably could be expected to result from an unauthorized disclosure; (ii) the existing or anticipated threat to the disclosure of information; and (iii) the short- and long-term costs of the requirements, restrictions, and other safeguards.

(e) To the extent that is practicable and reasonable, the requirements, restrictions, and safeguards that the Manual establishes for the protection of classified information by contractors, licensees, and grantees shall be consistent with the requirements, restrictions, and safeguards that directives implementing Executive Order No. 12356 of April 2, 1982 [formerly set out above], or the Atomic Energy Act of 1954, as amended, establish for the protection of classified information by agencies. Upon request by the Chairman of the Committee, the Secretary of Defense shall provide an explanation and justification for any requirement, restriction, or safeguard that results in a standard for the protection of classified information by contractors, licensees, and grantees that differs from the standard that applies to agencies.

(f) The Manual shall be issued to correspond as closely as possible to pertinent decisions of the Secretary of Defense and the Director of Central Intelligence made pursuant to the recommendations of the Joint Security Review Commission and to revisions to the security classification system that result from Presidential Review Directive 29, but in any event no later than June 30, 1994.

SEC. 202. *Operational Oversight*. (a) The Secretary of Defense shall serve as Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require or will require access to, or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees. The heads of agencies shall enter into agreements with the Secretary of Defense that establish the terms of the Secretary's responsibilities on behalf of these agency heads.

(b) The Director of Central Intelligence retains authority over access to intelligence sources and methods, including Sensitive Compartmented Information. The Director of Central Intelligence may inspect and monitcr [sic] contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on the Director's behalf.

(c) The Secretary of Energy and the Nuclear Regulatory Commission retain authority over access to information under their respective programs classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The Secretary or the Commission may inspect and monitor contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on behalf of the Secretary or the Commission, respectively.

(d) The Executive Agent shall have the authority to issue, after consultation with affected agencies, standard forms or other standardization that will promote the implementation of the National Industrial Security Program.

SEC. 203. *Implementation*. (a) The head of each agency that enters into classified contracts, licenses, or grants shall designate a senior agency official to direct and administer the agency's implementation and compliance with the National Industrial Security Program.

(b) Agency implementing regulations, internal rules, or guidelines shall be consistent with this order, its implementing directives, and the Manual. Agencies shall issue these regulations, rules, or guidelines no later than 180 days from the issuance of the Manual. They may incorporate all or portions of the Manual by reference.

(c) Each agency head or the senior official designated under paragraph (a) above shall take appropriate and prompt corrective action whenever a violation of this order, its implementing directives, or the Manual occurs.

(d) The senior agency official designated under paragraph (a) above shall account each year for the costs within the agency associated with the implementation of the National Industrial Security Program. These costs shall be reported to the Director of the Information Security Oversight Office, who shall include them in the reports to the President prescribed by this order.

(e) The Secretary of Defense, with the concurrence of the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and such other agency heads or officials who may be responsible, shall amend the Federal Acquisition Regulation to be consistent with the implementation of the National Industrial Security Program.

(f) All contracts, licenses, or grants that involve access to classified information and that are advertised or proposed following the issuance of agency regulations, rules, or guidelines described in paragraph (b) above shall comply with the National Industrial Security Program. To the extent that is feasible, economical, and permitted by law, agencies shall amend, modify, or convert preexisting contracts, licenses, or grants, or previously advertised or proposed contracts, licenses, or grants, that involve access to classified information for operation under the National Industrial Security Program. Any direct inspection or monitoring of contractors, licensees, or grantees specified by this order shall be carried out pursuant to the terms of a contract, license, grant, or regulation.

(g) [Amended Ex. Ord. No. 10865, set out above.]

(h) All delegations, rules, regulations, orders, directives, agreements, contracts, licenses, and grants issued under preexisting authorities, including section 1(a) and (b) of Executive Order No. 10865 of February 20, 1960, as amended, by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, shall remain in full force and effect until amended, modified, or terminated pursuant to authority of this order.

(i) This order shall be effective immediately.

EXTENSION OF TERM OF NATIONAL INDUSTRIAL SECURITY PROGRAM POLICY ADVISORY COMMITTEE

Term of the National Industrial Security Program Policy Advisory Committee extended until Sept. 30, 2013, by Ex. Ord. No. 13585, Sept. 30, 2011, 76 F.R. 62281, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the National Industrial Security Program Policy Advisory Committee extended until Sept. 30,

2015, by Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

EX. ORD. NO. 12937. DECLASSIFICATION OF SELECTED RECORDS WITHIN NATIONAL ARCHIVES OF UNITED STATES

Ex. Ord. No. 12937, Nov. 10, 1994, 59 F.R. 59097, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. The records in the National Archives of the United States referenced in the list accompanying this order are hereby declassified.

SEC. 2. The Archivist of the United States shall take such actions as are necessary to make such records available for public research no later than 30 days from the date of this Order, except to the extent that the head of an affected agency and the Archivist have determined that specific information within such records must be protected from disclosure pursuant to an authorized exemption to the Freedom of Information Act, 5 U.S.C. 552, other than the exemption that pertains to national security information.

SEC. 3. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

Records in the following record groups (''RG'') in the National Archives of the United States shall be declassified. Page numbers are approximate. A complete list of the selected records is available from the Archivist of the United States.

I. All unreviewed World War II and earlier records, including:		
A.	RG 18, Army Air Forces	1,722,400 pp.
B.	RG 65, Federal Bureau of Investigation	362,500 pp.
C.	RG 127, United States Marine Corps	195,000 pp.
D.	RG 216, Office of Censorship	112,500 pp.
E.	RG 226, Office of Strategic Services	415,000 pp.
F.	RG 60, United States Occupation Headquarters	4,422,500 pp.
G.	RG 331, Allied Operational and Occupation Headquarters, World War II (including 350 reels of Allied Force Headquarters)	3,097,500 pp.
H.	RG 332, United States Theaters of War, World War II	1,182,500 pp.
I.	RG 338, Mediterranean Theater of Operations and European Command	9,500,000 pp.
	Subtotal for World War II and earlier	21.0 million pp.
II. Post-1945 Collections (Military and Civil)		
A.	RG 19, Bureau of Ships, Pre-1950 General Correspondence (selected records)	1,732,500 pp.
B.	RG 51, Bureau of the Budget, 52.12 Budget Preparation Branch, 1952–69	142,500 pp.
C.	RG 72, Bureau of Aeronautics (Navy) (selected records)	5,655,000 pp.
D.	RG 166, Foreign Agricultural Service, Narrative Reports, 1955–61	1,272,500 pp.
E.	RG 313, Naval Operating Forces (selected records)	407,500 pp.
F.	RG 319, Office of the Chief of Military History	
	Manuscripts and Background Papers (selected records)	933,000 pp.
G.	RG 337, Headquarters, Army Ground Forces (selected records)	1,269,700 pp.
H.	RG 341, Headquarters, United States Air Force (selected records)	4,870,000 pp.
I.	RG 389, Office of the Provost Marshal General (selected records)	448,000 pp.
J.	RG 391, United States Army Regular Army Mobil Units	240,000 pp.
K.	RG 428, General Records of the Department of the Navy (selected records)	31,250 pp.
L.	RG 472, Army Vietnam Collection (selected records)	5,864,000 pp.
	Subtotal for Other	22.9 million pp.
	TOTAL	43.9 million pp.

EX. ORD. NO. 12951. RELEASE OF IMAGERY ACQUIRED BY SPACE-BASED NATIONAL INTELLIGENCE RECONNAISSANCE SYSTEMS

Ex. Ord. No. 12951, Feb. 22, 1995, 60 F.R. 10789, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to release certain scientifically or environmentally useful imagery acquired by space-based national intelligence reconnaissance systems, consistent with the national security, it is hereby ordered as follows:

SECTION 1. *Public Release of Historical Intelligence Imagery*. Imagery acquired by the space-based national intelligence reconnaissance systems known as the Corona, Argon, and Lanyard missions shall, within 18 months of the date of this order, be declassified and transferred to the National Archives and Records Administration with a copy sent to the United States Geological Survey of the Department of the Interior consistent with procedures approved by the Director of Central Intelligence and the Archivist of the United States. Upon transfer, such imagery shall be deemed declassified and shall be made available to the public.

SEC. 2. *Review for Future Public Release of Intelligence Imagery*. (a) All information that meets the criteria in section 2(b) of this order shall be kept secret in the interests of national defense and foreign policy until deemed otherwise by the Director of Central Intelligence. In consultation with the Secretaries of State and Defense, the Director of Central Intelligence shall establish a comprehensive program for the periodic review of imagery from systems other than the Corona, Argon, and Lanyard missions, with the objective of making available to the public as much imagery as possible consistent with the interests of national defense and foreign policy. For imagery from obsolete broad-area film-return systems other than Corona, Argon, and Lanyard missions, this review shall be completed within 5 years of the date of this order. Review of imagery from any other system that the Director of Central Intelligence deems to be obsolete shall be accomplished according to a timetable established by the Director of Central Intelligence. The Director of Central Intelligence shall report annually to the President on the implementation of this order.

(b) The criteria referred to in section 2(a) of this order consist of the following: imagery acquired by a space-based national intelligence reconnaissance system other than the Corona, Argon, and Lanyard missions.

SEC. 3. *General Provisions*. (a) This order prescribes a comprehensive and exclusive system for the public release of imagery acquired by space-based national intelligence reconnaissance systems. This order is the exclusive Executive order governing the public release of imagery for purposes of section 552(b)(1) of the Freedom of Information Act [5 U.S.C. 552(b)(1)].

(b) Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or

instrumentalities, its officers or employees, or any other person.

SEC. 4. *Definition*. As used herein, ''imagery'' means the product acquired by space-based national intelligence reconnaissance systems that provides a likeness or representation of any natural or man-made feature or related objective or activities and satellite positional data acquired at the same time the likeness or representation was acquired.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 12958

Ex. Ord. No. 12958, Apr. 17, 1995, 60 F.R. 19825, as amended by Ex. Ord. No. 12972, Sept. 18, 1995, 60 F.R. 48863; Ex. Ord. No. 13142, Nov. 19, 1999, 64 F.R. 66089; Ex. Ord. No. 13292, Mar. 25, 2003, 68 F.R. 15315, which related to classified national security information, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731, set out below.

EX. ORD. NO. 12968. ACCESS TO CLASSIFIED INFORMATION

Ex. Ord. No. 12968, Aug. 2, 1995, 60 F.R. 40245, as amended by Ex. Ord. No. 13467, § 3(b), June 30, 2008, 73 F.R. 38107, provided:

The national interest requires that certain information be maintained in confidence through a system of classification in order to protect our citizens, our democratic institutions, and our participation within the community of nations. The unauthorized disclosure of information classified in the national interest can cause irreparable damage to the national security and loss of human life.

Security policies designed to protect classified information must ensure consistent, cost effective, and efficient protection of our Nation's classified information, while providing fair and equitable treatment to those Americans upon whom we rely to guard our national security.

This order establishes a uniform Federal personnel security program for employees who will be considered for initial or continued access to classified information.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1—DEFINITIONS, ACCESS TO CLASSIFIED INFORMATION, FINANCIAL DISCLOSURE, AND OTHER ITEMS

SECTION 1.1. *Definitions*. For the purposes of this order: (a) ''Agency'' means any ''Executive agency,'' as defined in 5 U.S.C. 105, the ''military departments,'' as defined in 5 U.S.C. 102, and any other entity within the executive branch that comes into the possession of classified information, including the Defense Intelligence Agency, National Security Agency, and the National Reconnaissance Office.

(b) ''Applicant'' means a person other than an employee who has received an authorized conditional offer of employment for a position that requires access to classified information.

(c) ''Authorized investigative agency'' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(d) ''Classified information'' means information that has been determined pursuant to Executive Order No. 12958 [formerly set out above], or any successor order, Executive Order No. 12951 [set out above], or any successor order, or the Atomic Energy Act of 1954 (42 U.S.C. 2011 [et seq.]), to require protection against unauthorized disclosure.

(e) ''Employee'' means a person, other than the President and Vice President, employed by, detailed or assigned to, an agency, including members of the Armed Forces; an expert or consultant to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of an agency, including all subcontractors; a personal services contractor; or any other category of person who acts for or on behalf of an agency as determined by the appropriate agency head.

(f) ''Foreign power'' and ''agent of a foreign power'' have the meaning provided in 50 U.S.C. 1801.

(g) ''Need for access'' means a determination that an employee requires access to a particular level of classified information in order to perform or assist in a lawful and authorized governmental function.

(h) ''Need-to-know'' means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(i) ''Overseas Security Executive Agent'' means the Board established by the President to consider, develop, coordinate and promote policies, standards and agreements on overseas security operations, programs and projects that affect all United States Government agencies under the authority of a Chief of Mission.

(j) ''Security Executive Agent'' means the Security Executive Agent established by the President to consider, coordinate, and recommend policy directives for U.S. security policies, procedures, and practices.

(k) ''Special access program'' has the meaning provided in section 4.1 of Executive Order No. 12958 [formerly set out above], or any successor order.

SEC. 1.2. *Access to Classified Information*. (a) No employee shall be granted access to classified information unless that employee has been determined to be eligible in accordance with this order and to possess a need-to-know.

(b) Agency heads shall be responsible for establishing and maintaining an effective program to ensure that access to classified information by each employee is clearly consistent with the interests of the national security.

(c) Employees shall not be granted access to classified information unless they:

(1) have been determined to be eligible for access under section 3.1 of this order by agency heads or designated officials based upon a favorable adjudication of an appropriate investigation of the employee's background;

(2) have a demonstrated need-to-know; and

(3) have signed an approved nondisclosure agreement.

(d) All employees shall be subject to investigation by an appropriate government authority prior to being granted access to classified information and at any time during the period of access to ascertain whether they continue to meet the requirements for access.

(e)(1) All employees granted access to classified information shall be required as a condition of such access to provide to the employing agency written consent permitting access by an authorized investigative agency, for such time as access to classified information is maintained and for a period of 3 years thereafter, to:

(A) relevant financial records that are maintained by a financial institution as defined in 31 U.S.C. 5312(a) or by a holding company as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401[(6)]);

(B) consumer reports pertaining to the employee under the Fair Credit Reporting Act (15 U.S.C. 1681a [1681 et seq.]); and

(C) records maintained by commercial entities within the United States pertaining to any travel by the employee outside the United States.

(2) Information may be requested pursuant to employee consent under this section where:

(A) there are reasonable grounds to believe, based on credible information, that the employee or former employee is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(B) information the employing agency deems credible indicates the employee or former employee has in-

curred excessive indebtedness or has acquired a level of affluence that cannot be explained by other information; or

(C) circumstances indicate the employee or former employee had the capability and opportunity to disclose classified information that is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Nothing in this section shall be construed to affect the authority of an investigating agency to obtain information pursuant to the Right to Financial Privacy Act [of 1978, 12 U.S.C. 3401 et seq.], the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.] or any other applicable law.

SEC. 1.3. *Financial Disclosure*. (a) Not later than 180 days after the effective date of this order, the head of each agency that originates, handles, transmits, or possesses classified information shall designate each employee, by position or category where possible, who has a regular need for access to classified information that, in the discretion of the agency head, would reveal:

(1) the identity of covert agents as defined in the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 [sic] [et seq.]) [now 50 U.S.C. 3121 et seq.];

(2) technical or specialized national intelligence collection and processing systems that, if disclosed in an unauthorized manner, would substantially negate or impair the effectiveness of the system;

(3) the details of:

(A) the nature, contents, algorithm, preparation, or use of any code, cipher, or cryptographic system or;

(B) the design, construction, functioning, maintenance, or repair of any cryptographic equipment; but not including information concerning the use of cryptographic equipment and services;

(4) particularly sensitive special access programs, the disclosure of which would substantially negate or impair the effectiveness of the information or activity involved; or

(5) especially sensitive nuclear weapons design information (but only for those positions that have been certified as being of a high degree of importance or sensitivity, as described in section 145(f) of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2165(f)]).

(b) An employee may not be granted access, or hold a position designated as requiring access, to information described in subsection (a) unless, as a condition of access to such information, the employee:

(1) files with the head of the agency a financial disclosure report, including information with respect to the spouse and dependent children of the employee, as part of all background investigations or reinvestigations;

(2) is subject to annual financial disclosure requirements, if selected by the agency head; and

(3) files relevant information concerning foreign travel, as determined by the Security Executive Agent.

(c) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop procedures for the implementation of this section, including a standard financial disclosure form for use by employees under subsection (b) of this section, and agency heads shall identify certain employees, by position or category, who are subject to annual financial disclosure.

SEC. 1.4. *Use of Automated Financial Record Data Bases*. As part of all investigations and reinvestigations described in section 1.2(d) of this order, agencies may request the Department of the Treasury, under terms and conditions prescribed by the Secretary of the Treasury, to search automated data bases consisting of reports of currency transactions by financial institutions, international transportation of currency or monetary instruments, foreign bank and financial accounts, transactions under $10,000 that are reported as possible money laundering violations, and records of foreign travel.

SEC. 1.5. *Employee Education and Assistance*. The head of each agency that grants access to classified information shall establish a program for employees with access to classified information to: (a) educate employees about individual responsibilities under this order; and

(b) inform employees about guidance and assistance available concerning issues that may affect their eligibility for access to classified information, including sources of assistance for employees who have questions or concerns about financial matters, mental health, or substance abuse.

PART 2—ACCESS ELIGIBILITY POLICY AND PROCEDURE

SEC. 2.1. *Eligibility Determinations*. (a) Determinations of eligibility for access to classified information shall be based on criteria established under this order. Such determinations are separate from suitability determinations with respect to the hiring or retention of persons for employment by the government or any other personnel actions.

(b) The number of employees that each agency determines are eligible for access to classified information shall be kept to the minimum required for the conduct of agency functions.

(1) Eligibility for access to classified information shall not be requested or granted solely to permit entry to, or ease of movement within, controlled areas when the employee has no need for access and access to classified information may reasonably be prevented. Where circumstances indicate employees may be inadvertently exposed to classified information in the course of their duties, agencies are authorized to grant or deny, in their discretion, facility access approvals to such employees based on an appropriate level of investigation as determined by each agency.

(2) Except in agencies where eligibility for access is a mandatory condition of employment, eligibility for access to classified information shall only be requested or granted based on a demonstrated, foreseeable need for access. Requesting or approving eligibility in excess of actual requirements is prohibited.

(3) Eligibility for access to classified information may be granted where there is a temporary need for access, such as one-time participation in a classified project, provided the investigative standards established under this order have been satisfied. In such cases, a fixed date or event for expiration shall be identified and access to classified information shall be limited to information related to the particular project or assignment.

(4) Access to classified information shall be terminated when an employee no longer has a need for access.

SEC. 2.2. *Level of Access Approval*. (a) The level at which an access approval is granted for an employee shall be limited, and relate directly, to the level of classified information for which there is a need for access. Eligibility for access to a higher level of classified information includes eligibility for access to information classified at a lower level.

(b) Access to classified information relating to a special access program shall be granted in accordance with procedures established by the head of the agency that created the program or, for programs pertaining to intelligence activities (including special activities but not including military operational, strategic, and tactical programs) or intelligence sources and methods, by the Director of Central Intelligence. To the extent possible and consistent with the national security interests of the United States, such procedures shall be consistent with the standards and procedures established by and under this order.

SEC. 2.3. *Temporary Access to Higher Levels*. (a) An employee who has been determined to be eligible for access to classified information based on favorable adjudication of a completed investigation may be granted temporary access to a higher level where security personnel authorized by the agency head to make access eligibility determinations find that such access:

(1) is necessary to meet operational or contractual exigencies not expected to be of a recurring nature;

(2) will not exceed 180 days; and

(3) is limited to specific, identifiable information that is made the subject of a written access record.

(b) Where the access granted under subsection (a) of this section involves another agency's classified information, that agency must concur before access to its information is granted.

SEC. 2.4. *Reciprocal Acceptance of Access Eligibility Determinations*. (a) Except when an agency has substantial information indicating that an employee may not satisfy the standards in section 3.1 of this order, background investigations and eligibility determinations conducted under this order shall be mutually and reciprocally accepted by all agencies.

(b) Except where there is substantial information indicating that the employee may not satisfy the standards in section 3.1 of this order, an employee with existing access to a special access program shall not be denied eligibility for access to another special access program at the same sensitivity level as determined personally by the agency head or deputy agency head, or have an existing access eligibility readjudicated, so long as the employee has a need for access to the information involved.

(c) This section shall not preclude agency heads from establishing additional, but not duplicative, investigative or adjudicative procedures for a special access program or for candidates for detail or assignment to their agencies, where such procedures are required in exceptional circumstances to protect the national security.

(d) Where temporary eligibility for access is granted under sections 2.3 or 3.3 of this order or where the determination of eligibility for access is conditional, the fact of such temporary or conditional access shall be conveyed to any other agency that considers affording the employee access to its information.

SEC. 2.5. *Specific Access Requirement*. (a) Employees who have been determined to be eligible for access to classified information shall be given access to classified information only where there is a need-to-know that information.

(b) It is the responsibility of employees who are authorized holders of classified information to verify that a prospective recipient's eligibility for access has been granted by an authorized agency official and to ensure that a need-to-know exists prior to allowing such access, and to challenge requests for access that do not appear well-founded.

SEC. 2.6. *Access by Non-United States Citizens*. (a) Where there are compelling reasons in furtherance of an agency mission, immigrant alien and foreign national employees who possess a special expertise may, in the discretion of the agency, be granted limited access to classified information only for specific programs, projects, contracts, licenses, certificates, or grants for which there is a need for access. Such individuals shall not be eligible for access to any greater level of classified information than the United States Government has determined may be releasable to the country of which the subject is currently a citizen, and such limited access may be approved only if the prior 10 years of the subject's life can be appropriately investigated. If there are any doubts concerning granting access, additional lawful investigative procedures shall be fully pursued.

(b) Exceptions to these requirements may be permitted only by the agency head or the senior agency official designated under section 6.1 of this order to further substantial national security interests.

PART 3—ACCESS ELIGIBILITY STANDARDS

SEC. 3.1. *Standards*. (a) No employee shall be deemed to be eligible for access to classified information merely by reason of Federal service or contracting, licensee, certificate holder, or grantee status, or as a matter of right or privilege, or as a result of any particular title, rank, position, or affiliation.

(b) Except as provided in sections 2.6 and 3.3 of this order, eligibility for access to classified information shall be granted only to employees who are United States citizens for whom an appropriate investigation has been completed and whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information. A determination of eligibility for access to such information is a discretionary security decision based on judgments by appropriately trained adjudicative personnel or appropriate automated procedures. Eligibility shall be granted only where facts and circumstances indicate access to classified information is clearly consistent with the national security interests of the United States, and any doubt shall be resolved in favor of the national security.

(c) The United States Government does not discriminate on the basis of race, color, religion, sex, national origin, disability, or sexual orientation in granting access to classified information.

(d) In determining eligibility for access under this order, agencies may investigate and consider any matter that relates to the determination of whether access is clearly consistent with the interests of national security. No inference concerning the standards in this section may be raised solely on the basis of the sexual orientation of the employee.

(e) No negative inference concerning the standards in this section may be raised solely on the basis of mental health counseling. Such counseling can be a positive factor in eligibility determinations. However, mental health counseling, where relevant to the adjudication of access to classified information, may justify further inquiry to determine whether the standards of subsection (b) of this section are satisfied, and mental health may be considered where it directly relates to those standards.

(f) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop a common set of adjudicative guidelines for determining eligibility for access to classified information, including access to special access programs.

SEC. 3.2. *Basis for Eligibility Approval*. (a) Eligibility determinations for access to classified information shall be based on information concerning the applicant or employee that is acquired through the investigation conducted pursuant to this order or otherwise available to security officials and shall be made part of the applicant's or employee's security record. Applicants or employees shall be required to provide relevant information pertaining to their background and character for use in investigating and adjudicating their eligibility for access.

(b) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop a common set of investigative standards for background investigations for access to classified information. These standards may vary for the various levels of access.

(c) Nothing in this order shall prohibit an agency from utilizing any lawful investigative procedure in addition to the investigative requirements set forth in this order and its implementing regulations to resolve issues that may arise during the course of a background investigation or reinvestigation.

SEC. 3.3. *Special Circumstances*. (a) In exceptional circumstances where official functions must be performed prior to the completion of the investigative and adjudication process, temporary eligibility for access to classified information may be granted to an employee while the initial investigation is underway. When such eligibility is granted, the initial investigation shall be expedited.

(1) Temporary eligibility for access under this section shall include a justification, and the employee must be notified in writing that further access is expressly conditioned on the favorable completion of the investigation and issuance of an access eligibility approval. Access will be immediately terminated, along with any

assignment requiring an access eligibility approval, if such approval is not granted.

(2) Temporary eligibility for access may be granted only by security personnel authorized by the agency head to make access eligibility determinations and shall be based on minimum investigative standards developed by the Security Executive Agent not later than 180 days after the effective date of this order.

(3) Temporary eligibility for access may be granted only to particular, identified categories of classified information necessary to perform the lawful and authorized functions that are the basis for the granting of temporary access.

(b) Nothing in subsection (a) shall be construed as altering the authority of an agency head to waive requirements for granting access to classified information pursuant to statutory authority.

(c) Where access has been terminated under section 2.1(b)(4) of this order and a new need for access arises, access eligibility up to the same level shall be reapproved without further investigation as to employees who were determined to be eligible based on a favorable adjudication of an investigation completed within the prior 5 years, provided they have remained employed by the same employer during the period in question, the employee certifies in writing that there has been no change in the relevant information provided by the employee for the last background investigation, and there is no information that would tend to indicate the employee may no longer satisfy the standards established by this order for access to classified information.

(d) Access eligibility shall be reapproved for individuals who were determined to be eligible based on a favorable adjudication of an investigation completed within the prior 5 years and who have been retired or otherwise separated from United States Government employment for not more than 2 years; provided there is no indication the individual may no longer satisfy the standards of this order, the individual certifies in writing that there has been no change in the relevant information provided by the individual for the last background investigation, and an appropriate record check reveals no unfavorable information.

SEC. 3.4. *Reinvestigation Requirements*. (a) Because circumstances and characteristics may change dramatically over time and thereby alter the eligibility of employees for continued access to classified information, reinvestigations shall be conducted with the same priority and care as initial investigations.

(b) Employees who are eligible for access to classified information shall be the subject of periodic reinvestigations and may also be reinvestigated if, at any time, there is reason to believe that they may no longer meet the standards for access established in this order.

(c) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop a common set of reinvestigative standards, including the frequency of reinvestigations.

SEC. 3.5. *Continuous Evaluation*. An individual who has been determined to be eligible for or who currently has access to classified information shall be subject to continuous evaluation under standards (including, but not limited to, the frequency of such evaluation) as determined by the Director of National Intelligence.

PART 4—INVESTIGATIONS FOR FOREIGN GOVERNMENTS

SEC. 4. *Authority*. Agencies that conduct background investigations, including the Federal Bureau of Investigation and the Department of State, are authorized to conduct personnel security investigations in the United States when requested by a foreign government as part of its own personnel security program and with the consent of the individual.

PART 5—REVIEW OF ACCESS DETERMINATIONS

SEC. 5.1. *Determinations of Need for Access*. A determination under section 2.1(b)(4) of this order that an employee does not have, or no longer has, a need for access is a discretionary determination and shall be conclusive.

SEC. 5.2. *Review Proceedings for Denials or Revocations of Eligibility for Access*. (a) Applicants and employees who are determined to not meet the standards for access to classified information established in section 3.1 of this order shall be:

(1) provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;

(2) provided within 30 days, upon request and to the extent the documents would be provided if requested under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a), as applicable, any documents, records, and reports upon which a denial or revocation is based;

(3) informed of their right to be represented by counsel or other representative at their own expense; to request any documents, records, and reports as described in section 5.2(a)(2) upon which a denial or revocation is based; and to request the entire investigative file, as permitted by the national security and other applicable law, which, if requested, shall be promptly provided prior to the time set for a written reply;

(4) provided a reasonable opportunity to reply in writing to, and to request a review of, the determination;

(5) provided written notice of and reasons for the results of the review, the identity of the deciding authority, and written notice of the right to appeal;

(6) provided an opportunity to appeal in writing to a high level panel, appointed by the agency head, which shall be comprised of at least three members, two of whom shall be selected from outside the security field. Decisions of the panel shall be in writing, and final except as provided in subsection (b) of this section; and

(7) provided an opportunity to appear personally and to present relevant documents, materials, and information at some point in the process before an adjudicative or other authority, other than the investigating entity, as determined by the agency head. A written summary or recording of such appearance shall be made part of the applicant's or employee's security record, unless such appearance occurs in the presence of the appeals panel described in subsection (a)(6) of this section.

(b) Nothing in this section shall prohibit an agency head from personally exercising the appeal authority in subsection (a)(6) of this section based upon recommendations from an appeals panel. In such case, the decision of the agency head shall be final.

(c) Agency heads shall promulgate regulations to implement this section and, at their sole discretion and as resources and national security considerations permit, may provide additional review proceedings beyond those required by subsection (a) of this section. This section does not require additional proceedings, however, and creates no procedural or substantive rights.

(d) When the head of an agency or principal deputy personally certifies that a procedure set forth in this section cannot be made available in a particular case without damaging the national security interests of the United States by revealing classified information, the particular procedure shall not be made available. This certification shall be conclusive.

(e) This section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to any law or other Executive order to deny or terminate access to classified information in the interests of national security. The power and responsibility to deny or terminate access to classified information pursuant to any law or other Executive order may be exercised only where the agency head determines that the procedures prescribed in subsection (a) of this section cannot be invoked in a manner that is consistent with national security. This determination shall be conclusive.

(f)(1) This section shall not be deemed to limit or affect the responsibility and power of an agency head to make determinations of suitability for employment.

(2) Nothing in this section shall require that an agency provide the procedures prescribed in subsection (a) of this section to an applicant where a conditional offer of employment is withdrawn for reasons of suitability or any other reason other than denial of eligibility for access to classified information.

(3) A suitability determination shall not be used for the purpose of denying an applicant or employee the review proceedings of this section where there has been a denial or revocation of eligibility for access to classified information.

PART 6—IMPLEMENTATION

SEC. 6.1. *Agency Implementing Responsibilities*. Heads of agencies that grant employees access to classified information shall: (a) designate a senior agency official to direct and administer the agency's personnel security program established by this order. All such programs shall include active oversight and continuing security education and awareness programs to ensure effective implementation of this order;

(b) cooperate, under the guidance of the Security Executive Agent, with other agencies to achieve practical, consistent, and effective adjudicative training and guidelines; and

(c) conduct periodic evaluations of the agency's implementation and administration of this order, including the implementation of section 1.3(a) of this order. Copies of each report shall be provided to the Security Executive Agent.

SEC. 6.2. *Employee Responsibilities*. (a) Employees who are granted eligibility for access to classified information shall:

(1) protect classified information in their custody from unauthorized disclosure;

(2) report all contacts with persons, including foreign nationals, who seek in any way to obtain unauthorized access to classified information;

(3) report all violations of security regulations to the appropriate security officials; and

(4) comply with all other security requirements set forth in this order and its implementing regulations.

(b) Employees are encouraged and expected to report any information that raises doubts as to whether another employee's continued eligibility for access to classified information is clearly consistent with the national security.

SEC. 6.3. *Security Executive Agent Responsibilities and Implementation*. (a) With respect to actions taken by the Security Executive Agent pursuant to sections 1.3(c), 3.1(f), 3.2(b), 3.3(a)(2), and 3.4(c) of this order, the Director of National Intelligence shall serve as the final authority for implementation.

(b) Any guidelines, standards, or procedures developed by the Security Executive Agent pursuant to this order shall be consistent with those guidelines issued by the Federal Bureau of Investigation in March 1994 on Background Investigations Policy/Guidelines Regarding Sexual Orientation.

(c) In carrying out its responsibilities under this order, the Security Executive Agent shall consult where appropriate with the Overseas Security Executive Agent. In carrying out its responsibilities under section 1.3(c) of this order, the Security Executive Agent shall obtain the concurrence of the Director of the Office of Management and Budget.

SEC. 6.4. *Sanctions*. Employees shall be subject to appropriate sanctions if they knowingly and willfully grant eligibility for, or allow access to, classified information in violation of this order or its implementing regulations. Sanctions may include reprimand, suspension without pay, removal, and other actions in accordance with applicable law and agency regulations.

PART 7—GENERAL PROVISIONS

SEC. 7.1. *Classified Information Procedures Act*. Nothing in this order is intended to alter the procedures established under the Classified Information Procedures Act (18 U.S.C. App.).

SEC. 7.2. *General*. (a) Information obtained by an agency under sections 1.2(e) or 1.3 of this order may not be disseminated outside the agency, except to:

(1) the agency employing the employee who is the subject of the records or information;

(2) the Department of Justice for law enforcement or counterintelligence purposes; or

(3) any agency if such information is clearly relevant to the authorized responsibilities of such agency.

(b) The Attorney General, at the request of the head of an agency, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(c) No prior Executive orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive order, this order shall control, except that this order shall not diminish or otherwise affect the requirements of Executive Order No. 10450 [5 U.S.C. 7311 note], the denial and revocation procedures provided to individuals covered by Executive Order No. 10865, as amended [set out above], or access by historical researchers and former presidential appointees under Executive Order No. 12958 [formerly set out above] or any successor order.

(d) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(e) This Executive order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(f) This order is effective immediately.

EX. ORD. NO. 13467. REFORMING PROCESSES RELATED TO SUITABILITY FOR GOVERNMENT EMPLOYMENT, FITNESS FOR CONTRACTOR EMPLOYEES, AND ELIGIBILITY FOR ACCESS TO CLASSIFIED NATIONAL SECURITY INFORMATION

Ex. Ord. No. 13467, June 30, 2008, 73 F.R. 38103, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure an efficient, practical, reciprocal, and aligned system for investigating and determining suitability for Government employment, contractor employee fitness, and eligibility for access to classified information, while taking appropriate account of title III of Public Law 108–458, it is hereby ordered as follows:

PART 1—POLICY, APPLICABILITY, AND DEFINITIONS

SECTION 1.1. *Policy*. Executive branch policies and procedures relating to suitability, contractor employee fitness, eligibility to hold a sensitive position, access to federally controlled facilities and information systems, and eligibility for access to classified information shall be aligned using consistent standards to the extent possible, provide for reciprocal recognition, and shall ensure cost-effective, timely, and efficient protection of the national interest, while providing fair treatment to those upon whom the Federal Government relies to conduct our Nation's business and protect national security.

SEC. 1.2. *Applicability*. (a) This order applies to all covered individuals as defined in section 1.3(g), except that:

(i) the provisions regarding eligibility for physical access to federally controlled facilities and logical access to federally controlled information systems do not apply to individuals exempted in accordance with guidance pursuant to the Federal Information Security Management Act (title III of Public Law 107–347) and Homeland Security Presidential Directive 12; and

(ii) the qualification standards for enlistment, appointment, and induction into the Armed Forces pursu-

ant to title 10, United States Code, are unaffected by this order.

(b) This order also applies to investigations and determinations of eligibility for access to classified information for employees of agencies working in or for the legislative or judicial branches when those investigations or determinations are conducted by the executive branch.

SEC. 1.3. *Definitions*. For the purpose of this order: (a) ''Adjudication'' means the evaluation of pertinent data in a background investigation, as well as any other available information that is relevant and reliable, to determine whether a covered individual is:

(i) suitable for Government employment;

(ii) eligible for logical and physical access;

(iii) eligible for access to classified information;

(iv) eligible to hold a sensitive position; or

(v) fit to perform work for or on behalf of the Government as a contractor employee.

(b) ''Agency'' means any ''Executive agency'' as defined in section 105 of title 5, United States Code, including the ''military departments,'' as defined in section 102 of title 5, United States Code, and any other entity within the executive branch that comes into possession of classified information or has designated positions as sensitive, except such an entity headed by an officer who is not a covered individual.

(c) ''Classified information'' means information that has been determined pursuant to Executive Order 12958 of April 17, 1995, as amended [formerly set out above], or a successor or predecessor order, or the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq*.) to require protection against unauthorized disclosure.

(d) ''Continuous evaluation'' means reviewing the background of an individual who has been determined to be eligible for access to classified information (including additional or new checks of commercial databases, Government databases, and other information lawfully available to security officials) at any time during the period of eligibility to determine whether that individual continues to meet the requirements for eligibility for access to classified information.

(e) ''Contractor'' means an expert or consultant (not appointed under section 3109 of title 5, United States Code) to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of any agency, including all subcontractors; a personal services contractor; or any other category of person who performs work for or on behalf of an agency (but not a Federal employee).

(f) ''Contractor employee fitness'' means fitness based on character and conduct for work for or on behalf of the Government as a contractor employee.

(g) ''Covered individual'' means a person who performs work for or on behalf of the executive branch, or who seeks to perform work for or on behalf of the executive branch, but does not include:

(i) the President or (except to the extent otherwise directed by the President) employees of the President under section 105 or 107 of title 3, United States Code; or

(ii) the Vice President or (except to the extent otherwise directed by the Vice President) employees of the Vice President under section 106 of title 3 or annual legislative branch appropriations acts.

(h) ''End-to-end automation'' means an executive branch-wide federated system that uses automation to manage and monitor cases and maintain relevant documentation of the application (but not an employment application), investigation, adjudication, and continuous evaluation processes.

(i) ''Federally controlled facilities'' and ''federally controlled information systems'' have the meanings prescribed in guidance pursuant to the Federal Information Security Management Act (title III of Public Law 107–347) and Homeland Security Presidential Directive 12.

(j) ''Logical and physical access'' means access other than occasional or intermittent access to federally controlled facilities or information systems.

(k) ''Sensitive position'' means any position so designated under Executive Order 10450 of April 27, 1953, as amended.

(*l*) ''Suitability'' has the meaning and coverage provided in 5 CFR Part 731.

PART 2—ALIGNMENT, RECIPROCITY, AND GOVERNANCE

SEC. 2.1. *Aligned System*. (a) Investigations and adjudications of covered individuals who require a determination of suitability, eligibility for logical and physical access, eligibility to hold a sensitive position, eligibility for access to classified information, and, as appropriate, contractor employee fitness, shall be aligned using consistent standards to the extent possible. Each successively higher level of investigation and adjudication shall build upon, but not duplicate, the ones below it.

(b) The aligned system shall employ updated and consistent standards and methods, enable innovations with enterprise information technology capabilities and end-to-end automation to the extent practicable, and ensure that relevant information maintained by agencies can be accessed and shared rapidly across the executive branch, while protecting national security, protecting privacy-related information, ensuring resulting decisions are in the national interest, and providing the Federal Government with an effective workforce.

(c) Except as otherwise authorized by law, background investigations and adjudications shall be mutually and reciprocally accepted by all agencies. An agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination consistent with law, directive, or regulation) that exceed the requirements for suitability, contractor employee fitness, eligibility for logical or physical access, eligibility to hold a sensitive position, or eligibility for access to classified information without the approval of the Suitability Executive Agent or Security Executive Agent, as appropriate, and provided that approval to establish additional requirements shall be limited to circumstances where additional requirements are necessary to address significant needs unique to the agency involved or to protect national security.

SEC. 2.2. *Establishment and Functions of Performance Accountability Council*. (a) There is hereby established a Suitability and Security Clearance Performance Accountability Council (Council).

(b) The Deputy Director for Management, Office of Management and Budget, shall serve as Chair of the Council and shall have authority, direction, and control over the Council's functions. Membership on the Council shall include the Suitability Executive Agent and the Security Executive Agent. The Chair shall select a Vice Chair to act in the Chair's absence. The Chair shall have authority to designate officials from additional agencies who shall serve as members of the Council. Council membership shall be limited to Federal Government employees and shall include suitability and security professionals.

(c) The Council shall be accountable to the President to achieve, consistent with this order, the goals of reform, and is responsible for driving implementation of the reform effort, ensuring accountability by agencies, ensuring the Suitability Executive Agent and the Security Executive Agent align their respective processes, and sustaining reform momentum.

(d) The Council shall:

(i) ensure alignment of suitability, security, and, as appropriate, contractor employee fitness investigative and adjudicative processes;

(ii) hold agencies accountable for the implementation of suitability, security, and, as appropriate, contractor employee fitness processes and procedures;

(iii) establish requirements for enterprise information technology;

(iv) establish annual goals and progress metrics and prepare annual reports on results;

(v) ensure and oversee the development of tools and techniques for enhancing background investigations and the making of eligibility determinations;

(vi) arbitrate disparities in procedures between the Suitability Executive Agent and the Security Executive Agent;

(vii) ensure sharing of best practices; and

(viii) advise the Suitability Executive Agent and the Security Executive Agent on policies affecting the alignment of investigations and adjudications.

(e) The Chair may, to ensure the effective implementation of the policy set forth in section 1.1 of this order and to the extent consistent with law, assign, in whole or in part, to the head of any agency (solely or jointly) any function within the Council's responsibility relating to alignment and improvement of investigations and determinations of suitability, contractor employee fitness, eligibility for logical and physical access, eligibility for access to classified information, or eligibility to hold a sensitive position.

SEC. 2.3. *Establishment, Designation, and Functions of Executive Agents.* (a) There is hereby established a Suitability Executive Agent and a Security Executive Agent.

(b) The Director of the Office of Personnel Management shall serve as the Suitability Executive Agent. As the Suitability Executive Agent, the Director of the Office of Personnel Management will continue to be responsible for developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications relating to determinations of suitability and eligibility for logical and physical access.

(c) The Director of National Intelligence shall serve as the Security Executive Agent. The Security Executive Agent:

(i) shall direct the oversight of investigations and determinations of eligibility for access to classified information or eligibility to hold a sensitive position made by any agency;

(ii) shall be responsible for developing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications relating to determinations of eligibility for access to classified information or eligibility to hold a sensitive position;

(iii) may issue guidelines and instructions to the heads of agencies to ensure appropriate uniformity, centralization, efficiency, effectiveness, and timeliness in processes relating to determinations by agencies of eligibility for access to classified information or eligibility to hold a sensitive position;

(iv) shall serve as the final authority to designate an agency or agencies to conduct investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to classified information or eligibility to hold a sensitive position;

(v) shall serve as the final authority to designate an agency or agencies to determine eligibility for access to classified information in accordance with Executive Order 12968 of August 2, 1995 [set out above];

(vi) shall ensure reciprocal recognition of eligibility for access to classified information among the agencies, including acting as the final authority to arbitrate and resolve disputes among the agencies involving the reciprocity of investigations and determinations of eligibility for access to classified information or eligibility to hold a sensitive position; and

(vii) may assign, in whole or in part, to the head of any agency (solely or jointly) any of the functions detailed in (i) through (vi), above, with the agency's exercise of such assigned functions to be subject to the Security Executive Agent's oversight and with such terms and conditions (including approval by the Security Executive Agent) as the Security Executive Agent determines appropriate.

(d) Nothing in this order shall be construed in a manner that would limit the authorities of the Director of the Office of Personnel Management or the Director of National Intelligence under law.

SEC. 2.4. *Additional Functions.* (a) The duties assigned to the Security Policy Board by Executive Order 12968 of August 2, 1995, to consider, coordinate, and recommend policy directives for executive branch security policies, procedures, and practices are reassigned to the Security Executive Agent.

(b) Heads of agencies shall:

(i) carry out any function assigned to the agency head by the Chair, and shall assist the Chair, the Council, the Suitability Executive Agent, and the Security Executive Agent in carrying out any function under sections 2.2 and 2.3 of this order;

(ii) implement any policy or procedure developed pursuant to this order;

(iii) to the extent permitted by law, make available to the Performance Accountability Council, the Suitability Executive Agent, or the Security Executive Agent such information as may be requested to implement this order;

(iv) ensure that all actions taken under this order take account of the counterintelligence interests of the United States, as appropriate; and

(v) ensure that actions taken under this order are consistent with the President's constitutional authority to:

(A) conduct the foreign affairs of the United States;

(B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties;

(C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and

(D) supervise the unitary executive branch.

PART 3—MISCELLANEOUS

SEC. 3. *General Provisions.* (a) Executive Order 13381 of June 27, 2005, as amended, is revoked. Nothing in this order shall:

(i) supersede, impede, or otherwise affect:

(A) Executive Order 10450 of April 27, 1953, as amended;

(B) Executive Order 10577 of November 23, 1954, as amended;

(C) Executive Order 12333 of December 4, 1981, as amended;

(D) Executive Order 12829 of January 6, 1993, as amended; or

(E) Executive Order 12958 of April 17, 1995, as amended [formerly set out above]; nor

(ii) diminish or otherwise affect the denial and revocation procedures provided to individuals covered by Executive Order 10865 of February 20, 1960, as amended.

(b) [Amended Ex. Ord. No. 12968, set out above.]

(c) Nothing in this order shall supersede, impede, or otherwise affect the remainder of Executive Order 12968 of August 2, 1995, as amended.

(d) [Amended Ex. Ord. No. 12171, set out as a note under section 7103 of Title 5, Government Organization and Employees.]

(e) Nothing in this order shall be construed to impair or otherwise affect the:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) Existing delegations of authority made pursuant to Executive Order 13381 of June 27, 2005, as amended, to any agency relating to granting eligibility for access to classified information and conducting investigations shall 13 [sic] remain in effect, subject to the exercise of authorities pursuant to this order to revise or revoke such delegation.

(h) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(i) This order is intended only to improve the internal management of the executive branch and is not in-

tended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13526. CLASSIFIED NATIONAL SECURITY INFORMATION

Ex. Ord. No. 13526, Dec. 29, 2009, 75 F.R. 707, 1013, provided:

This order prescribes a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism. Our democratic principles require that the American people be informed of the activities of their Government. Also, our Nation's progress depends on the free flow of information both within the Government and to the American people. Nevertheless, throughout our history, the national defense has required that certain information be maintained in confidence in order to protect our citizens, our democratic institutions, our homeland security, and our interactions with foreign nations. Protecting information critical to our Nation's security and demonstrating our commitment to open Government through accurate and accountable application of classification standards and routine, secure, and effective declassification are equally important priorities.

NOW, THEREFORE, I, BARACK OBAMA, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1—ORIGINAL CLASSIFICATION

SECTION 1.1. *Classification Standards*. (a) Information may be originally classified under the terms of this order only if all of the following conditions are met:

(1) an original classification authority is classifying the information;

(2) the information is owned by, produced by or for, or is under the control of the United States Government;

(3) the information falls within one or more of the categories of information listed in section 1.4 of this order; and

(4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, which includes defense against transnational terrorism, and the original classification authority is able to identify or describe the damage.

(b) If there is significant doubt about the need to classify information, it shall not be classified. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or

(2) create any substantive or procedural rights subject to judicial review.

(c) Classified information shall not be declassified automatically as a result of any unauthorized disclosure of identical or similar information.

(d) The unauthorized disclosure of foreign government information is presumed to cause damage to the national security.

SEC. 1.2. *Classification Levels*. (a) Information may be classified at one of the following three levels:

(1) ''Top Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.

(2) ''Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

(3) ''Confidential'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(b) Except as otherwise provided by statute, no other terms shall be used to identify United States classified information.

(c) If there is significant doubt about the appropriate level of classification, it shall be classified at the lower level.

SEC. 1.3. *Classification Authority*. (a) The authority to classify information originally may be exercised only by:

(1) the President and the Vice President;

(2) agency heads and officials designated by the President; and

(3) United States Government officials delegated this authority pursuant to paragraph (c) of this section.

(b) Officials authorized to classify information at a specified level are also authorized to classify information at a lower level.

(c) Delegation of original classification authority.

(1) Delegations of original classification authority shall be limited to the minimum required to administer this order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.

(2) ''Top Secret'' original classification authority may be delegated only by the President, the Vice President, or an agency head or official designated pursuant to paragraph (a)(2) of this section.

(3) ''Secret'' or ''Confidential'' original classification authority may be delegated only by the President, the Vice President, an agency head or official designated pursuant to paragraph (a)(2) of this section, or the senior agency official designated under section 5.4(d) of this order, provided that official has been delegated ''Top Secret'' original classification authority by the agency head.

(4) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this order. Each delegation shall identify the official by name or position.

(5) Delegations of original classification authority shall be reported or made available by name or position to the Director of the Information Security Oversight Office.

(d) All original classification authorities must receive training in proper classification (including the avoidance of over-classification) and declassification as provided in this order and its implementing directives at least once a calendar year. Such training must include instruction on the proper safeguarding of classified information and on the sanctions in section 5.5 of this order that may be brought against an individual who fails to classify information properly or protect classified information from unauthorized disclosure. Original classification authorities who do not receive such mandatory training at least once within a calendar year shall have their classification authority suspended by the agency head or the senior agency official designated under section 5.4(d) of this order until such training has taken place. A waiver may be granted by the agency head, the deputy agency head, or the senior agency official if an individual is unable to receive such training due to unavoidable circumstances. Whenever a waiver is granted, the individual shall receive such training as soon as practicable.

(e) Exceptional cases. When an employee, government contractor, licensee, certificate holder, or grantee of an agency who does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this order and its implementing directives. The information shall be transmitted promptly as provided under this order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within 30 days whether to classify this information.

SEC. 1.4. *Classification Categories*. Information shall not be considered for classification unless its unauthorized disclosure could reasonably be expected to cause identifiable or describable damage to the national security in accordance with section 1.2 of this order, and it pertains to one or more of the following:

(a) military plans, weapons systems, or operations;

(b) foreign government information;

(c) intelligence activities (including covert action), intelligence sources or methods, or cryptology;

(d) foreign relations or foreign activities of the United States, including confidential sources;

(e) scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safeguarding nuclear materials or facilities;

(g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or (h) the development, production, or use of weapons of mass destruction.

SEC. 1.5. *Duration of Classification*. (a) At the time of original classification, the original classification authority shall establish a specific date or event for declassification based on the duration of the national security sensitivity of the information. Upon reaching the date or event, the information shall be automatically declassified. Except for information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, the date or event shall not exceed the time frame established in paragraph (b) of this section.

(b) If the original classification authority cannot determine an earlier specific date or event for declassification, information shall be marked for declassification 10 years from the date of the original decision, unless the original classification authority otherwise determines that the sensitivity of the information requires that it be marked for declassification for up to 25 years from the date of the original decision.

(c) An original classification authority may extend the duration of classification up to 25 years from the date of origin of the document, change the level of classification, or reclassify specific information only when the standards and procedures for classifying information under this order are followed.

(d) No information may remain classified indefinitely. Information marked for an indefinite duration of classification under predecessor orders, for example, marked as ''Originating Agency's Determination Required,'' or classified information that contains incomplete declassification instructions or lacks declassification instructions shall be declassified in accordance with part 3 of this order.

SEC. 1.6. *Identification and Markings*. (a) At the time of original classification, the following shall be indicated in a manner that is immediately apparent:

(1) one of the three classification levels defined in section 1.2 of this order;

(2) the identity, by name and position, or by personal identifier, of the original classification authority;

(3) the agency and office of origin, if not otherwise evident;

(4) declassification instructions, which shall indicate one of the following:

(A) the date or event for declassification, as prescribed in section 1.5(a);

(B) the date that is 10 years from the date of original classification, as prescribed in section 1.5(b);

(C) the date that is up to 25 years from the date of original classification, as prescribed in section 1.5(b); or

(D) in the case of information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, the marking prescribed in implementing directives issued pursuant to this order; and

(5) a concise reason for classification that, at a minimum, cites the applicable classification categories in section 1.4 of this order.

(b) Specific information required in paragraph (a) of this section may be excluded if it would reveal additional classified information.

(c) With respect to each classified document, the agency originating the document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are unclassified. In accordance with standards prescribed in directives issued under this order, the Director of the Information Security Oversight Office may grant and revoke temporary waivers of this requirement. The Director shall revoke any waiver upon a finding of abuse.

(d) Markings or other indicia implementing the provisions of this order, including abbreviations and requirements to safeguard classified working papers, shall conform to the standards prescribed in implementing directives issued pursuant to this order.

(e) Foreign government information shall retain its original classification markings or shall be assigned a U.S. classification that provides a degree of protection at least equivalent to that required by the entity that furnished the information. Foreign government information retaining its original classification markings need not be assigned a U.S. classification marking provided that the responsible agency determines that the foreign government markings are adequate to meet the purposes served by U.S. classification markings.

(f) Information assigned a level of classification under this or predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Whenever such information is used in the derivative classification process or is reviewed for possible declassification, holders of such information shall coordinate with an appropriate classification authority for the application of omitted markings.

(g) The classification authority shall, whenever practicable, use a classified addendum whenever classified information constitutes a small portion of an otherwise unclassified document or prepare a product to allow for dissemination at the lowest level of classification possible or in unclassified form.

(h) Prior to public release, all declassified records shall be appropriately marked to reflect their declassification.

SEC. 1.7. *Classification Prohibitions and Limitations*. (a) In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to:

(1) conceal violations of law, inefficiency, or administrative error;

(2) prevent embarrassment to a person, organization, or agency;

(3) restrain competition; or

(4) prevent or delay the release of information that does not require protection in the interest of the national security.

(b) Basic scientific research information not clearly related to the national security shall not be classified.

(c) Information may not be reclassified after declassification and release to the public under proper authority unless:

(1) the reclassification is personally approved in writing by the agency head based on a document-by-document determination by the agency that reclassification is required to prevent significant and demonstrable damage to the national security;

(2) the information may be reasonably recovered without bringing undue attention to the information;

(3) the reclassification action is reported promptly to the Assistant to the President for National Security Affairs (National Security Advisor) and the Director of the Information Security Oversight Office; and

(4) for documents in the physical and legal custody of the National Archives and Records Administration (National Archives) that have been available for public

use, the agency head has, after making the determinations required by this paragraph, notified the Archivist of the United States (Archivist), who shall suspend public access pending approval of the reclassification action by the Director of the Information Security Oversight Office. Any such decision by the Director may be appealed by the agency head to the President through the National Security Advisor. Public access shall remain suspended pending a prompt decision on the appeal.

(d) Information that has not previously been disclosed to the public under proper authority may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552), the Presidential Records Act, 44 U.S.C. 2204(c)(1), the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of section 3.5 of this order only if such classification meets the requirements of this order and is accomplished on a document-by-document basis with the personal participation or under the direction of the agency head, the deputy agency head, or the senior agency official designated under section 5.4 of this order. The requirements in this paragraph also apply to those situations in which information has been declassified in accordance with a specific date or event determined by an original classification authority in accordance with section 1.5 of this order.

(e) Compilations of items of information that are individually unclassified may be classified if the compiled information reveals an additional association or relationship that:

(1) meets the standards for classification under this order; and

(2) is not otherwise revealed in the individual items of information.

SEC. 1.8. *Classification Challenges*. (a) Authorized holders of information who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status of the information in accordance with agency procedures established under paragraph (b) of this section.

(b) In accordance with implementing directives issued pursuant to this order, an agency head or senior agency official shall establish procedures under which authorized holders of information, including authorized holders outside the classifying agency, are encouraged and expected to challenge the classification of information that they believe is improperly classified or unclassified. These procedures shall ensure that:

(1) individuals are not subject to retribution for bringing such actions;

(2) an opportunity is provided for review by an impartial official or panel; and

(3) individuals are advised of their right to appeal agency decisions to the Interagency Security Classification Appeals Panel (Panel) established by section 5.3 of this order.

(c) Documents required to be submitted for prepublication review or other administrative process pursuant to an approved nondisclosure agreement are not covered by this section.

SEC. 1.9. *Fundamental Classification Guidance Review*. (a) Agency heads shall complete on a periodic basis a comprehensive review of the agency's classification guidance, particularly classification guides, to ensure the guidance reflects current circumstances and to identify classified information that no longer requires protection and can be declassified. The initial fundamental classification guidance review shall be completed within 2 years of the effective date of this order.

(b) The classification guidance review shall include an evaluation of classified information to determine if it meets the standards for classification under section 1.4 of this order, taking into account an up-to-date assessment of likely damage as described under section 1.2 of this order.

(c) The classification guidance review shall include original classification authorities and agency subject matter experts to ensure a broad range of perspectives.

(d) Agency heads shall provide a report summarizing the results of the classification guidance review to the Director of the Information Security Oversight Office and shall release an unclassified version of this report to the public.

PART 2—DERIVATIVE CLASSIFICATION

SEC. 2.1. *Use of Derivative Classification*. (a) Persons who reproduce, extract, or summarize classified information, or who apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) be identified by name and position, or by personal identifier, in a manner that is immediately apparent for each derivative classification action;

(2) observe and respect original classification decisions; and

(3) carry forward to any newly created documents the pertinent classification markings. For information derivatively classified based on multiple sources, the derivative classifier shall carry forward:

(A) the date or event for declassification that corresponds to the longest period of classification among the sources, or the marking established pursuant to section 1.6(a)(4)(D) of this order; and

(B) a listing of the source materials.

(c) Derivative classifiers shall, whenever practicable, use a classified addendum whenever classified information constitutes a small portion of an otherwise unclassified document or prepare a product to allow for dissemination at the lowest level of classification possible or in unclassified form.

(d) Persons who apply derivative classification markings shall receive training in the proper application of the derivative classification principles of the order, with an emphasis on avoiding over-classification, at least once every 2 years. Derivative classifiers who do not receive such training at least once every 2 years shall have their authority to apply derivative classification markings suspended until they have received such training. A waiver may be granted by the agency head, the deputy agency head, or the senior agency official if an individual is unable to receive such training due to unavoidable circumstances. Whenever a waiver is granted, the individual shall receive such training as soon as practicable.

SEC. 2.2. *Classification Guides*. (a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information. These guides shall conform to standards contained in directives issued under this order.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official; and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agencies shall establish procedures to ensure that classification guides are reviewed and updated as provided in directives issued under this order.

(d) Agencies shall incorporate original classification decisions into classification guides on a timely basis and in accordance with directives issued under this order.

(e) Agencies may incorporate exemptions from automatic declassification approved pursuant to section 3.3(j) of this order into classification guides, provided that the Panel is notified of the intent to take such action for specific information in advance of approval and the information remains in active use.

(f) The duration of classification of a document classified by a derivative classifier using a classification guide shall not exceed 25 years from the date of the origin of the document, except for:

(1) information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction; and

(2) specific information incorporated into classification guides in accordance with section 2.2(e) of this order.

PART 3—DECLASSIFICATION AND DOWNGRADING

SEC. 3.1. *Authority for Declassification.* (a) Information shall be declassified as soon as it no longer meets the standards for classification under this order.

(b) Information shall be declassified or downgraded by:

(1) the official who authorized the original classification, if that official is still serving in the same position and has original classification authority;

(2) the originator's current successor in function, if that individual has original classification authority;

(3) a supervisory official of either the originator or his or her successor in function, if the supervisory official has original classification authority; or (4) officials delegated declassification authority in writing by the agency head or the senior agency official of the originating agency.

(c) The Director of National Intelligence (or, if delegated by the Director of National Intelligence, the Principal Deputy Director of National Intelligence) may, with respect to the Intelligence Community, after consultation with the head of the originating Intelligence Community element or department, declassify, downgrade, or direct the declassification or downgrading of information or intelligence relating to intelligence sources, methods, or activities.

(d) It is presumed that information that continues to meet the classification requirements under this order requires continued protection. In some exceptional cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head or the senior agency official. That official will determine, as an exercise of discretion, whether the public interest in disclosure outweighs the damage to the national security that might reasonably be expected from disclosure. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or

(2) create any substantive or procedural rights subject to judicial review.

(e) If the Director of the Information Security Oversight Office determines that information is classified in violation of this order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the President through the National Security Advisor. The information shall remain classified pending a prompt decision on the appeal.

(f) The provisions of this section shall also apply to agencies that, under the terms of this order, do not have original classification authority, but had such authority under predecessor orders.

(g) No information may be excluded from declassification under section 3.3 of this order based solely on the type of document or record in which it is found. Rather, the classified information must be considered on the basis of its content.

(h) Classified nonrecord materials, including artifacts, shall be declassified as soon as they no longer meet the standards for classification under this order.

(i) When making decisions under sections 3.3, 3.4, and 3.5 of this order, agencies shall consider the final decisions of the Panel.

SEC. 3.2. *Transferred Records.*

(a) In the case of classified records transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this order.

(b) In the case of classified records that are not officially transferred as described in paragraph (a) of this section, but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such records shall be deemed to be the originating agency for purposes of this order. Such records may be declassified or downgraded by the agency in possession of the records after consultation with any other agency that has an interest in the subject matter of the records.

(c) Classified records accessioned into the National Archives shall be declassified or downgraded by the Archivist in accordance with this order, the directives issued pursuant to this order, agency declassification guides, and any existing procedural agreement between the Archivist and the relevant agency head.

(d) The originating agency shall take all reasonable steps to declassify classified information contained in records determined to have permanent historical value before they are accessioned into the National Archives. However, the Archivist may require that classified records be accessioned into the National Archives when necessary to comply with the provisions of the Federal Records Act. This provision does not apply to records transferred to the Archivist pursuant to section 2203 of title 44, United States Code, or records for which the National Archives serves as the custodian of the records of an agency or organization that has gone out of existence.

(e) To the extent practicable, agencies shall adopt a system of records management that will facilitate the public release of documents at the time such documents are declassified pursuant to the provisions for automatic declassification in section 3.3 of this order.

SEC. 3.3 *Automatic Declassification.*

(a) Subject to paragraphs (b)–(d) and (g)–(j) of this section, all classified records that (1) are more than 25 years old and (2) have been determined to have permanent historical value under title 44, United States Code, shall be automatically declassified whether or not the records have been reviewed. All classified records shall be automatically declassified on December 31 of the year that is 25 years from the date of origin, except as provided in paragraphs (b)–(d) and (g)–(j) of this section. If the date of origin of an individual record cannot be readily determined, the date of original classification shall be used instead.

(b) An agency head may exempt from automatic declassification under paragraph (a) of this section specific information, the release of which should clearly and demonstrably be expected to:

(1) reveal the identity of a confidential human source, a human intelligence source, a relationship with an intelligence or security service of a foreign government or international organization, or a nonhuman intelligence source; or impair the effectiveness of an intelligence method currently in use, available for use, or under development;

(2) reveal information that would assist in the development, production, or use of weapons of mass destruction;

(3) reveal information that would impair U.S. cryptologic systems or activities;

(4) reveal information that would impair the application of state-of-the-art technology within a U.S. weapon system;

(5) reveal formally named or numbered U.S. military war plans that remain in effect, or reveal operational or tactical elements of prior plans that are contained in such active plans;

(6) reveal information, including foreign government information, that would cause serious harm to relations between the United States and a foreign government, or to ongoing diplomatic activities of the United States;

(7) reveal information that would impair the current ability of United States Government officials to protect the President, Vice President, and other protectees for whom protection services, in the interest of the national security, are authorized;

(8) reveal information that would seriously impair current national security emergency preparedness plans or reveal current vulnerabilities of systems, in-

stallations, or infrastructures relating to the national security; or

(9) violate a statute, treaty, or international agreement that does not permit the automatic or unilateral declassification of information at 25 years.

(c)(1) An agency head shall notify the Panel of any specific file series of records for which a review or assessment has determined that the information within that file series almost invariably falls within one or more of the exemption categories listed in paragraph (b) of this section and that the agency proposes to exempt from automatic declassification at 25 years.

(2) The notification shall include:

(A) a description of the file series;

(B) an explanation of why the information within the file series is almost invariably exempt from automatic declassification and why the information must remain classified for a longer period of time; and

(C) except when the information within the file series almost invariably identifies a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, a specific date or event for declassification of the information, not to exceed December 31 of the year that is 50 years from the date of origin of the records.

(3) The Panel may direct the agency not to exempt a designated file series or to declassify the information within that series at an earlier date than recommended. The agency head may appeal such a decision to the President through the National Security Advisor.

(4) File series exemptions approved by the President prior to December 31, 2008, shall remain valid without any additional agency action pending Panel review by the later of December 31, 2010, or December 31 of the year that is 10 years from the date of previous approval.

(d) The following provisions shall apply to the onset of automatic declassification:

(1) Classified records within an integral file block, as defined in this order, that are otherwise subject to automatic declassification under this section shall not be automatically declassified until December 31 of the year that is 25 years from the date of the most recent record within the file block.

(2) After consultation with the Director of the National Declassification Center (the Center) established by section 3.7 of this order and before the records are subject to automatic declassification, an agency head or senior agency official may delay automatic declassification for up to five additional years for classified information contained in media that make a review for possible declassification exemptions more difficult or costly.

(3) Other than for records that are properly exempted from automatic declassification, records containing classified information that originated with other agencies or the disclosure of which would affect the interests or activities of other agencies with respect to the classified information and could reasonably be expected to fall under one or more of the exemptions in paragraph (b) of this section shall be identified prior to the onset of automatic declassification for later referral to those agencies.

(A) The information of concern shall be referred by the Center established by section 3.7 of this order, or by the centralized facilities referred to in section 3.7(e) of this order, in a prioritized and scheduled manner determined by the Center.

(B) If an agency fails to provide a final determination on a referral made by the Center within 1 year of referral, or by the centralized facilities referred to in section 3.7(e) of this order within 3 years of referral, its equities in the referred records shall be automatically declassified.

(C) If any disagreement arises between affected agencies and the Center regarding the referral review period, the Director of the Information Security Oversight Office shall determine the appropriate period of review of referred records.

(D) Referrals identified prior to the establishment of the Center by section 3.7 of this order shall be subject to automatic declassification only in accordance with subparagraphs (d)(3)(A)–(C) of this section.

(4) After consultation with the Director of the Information Security Oversight Office, an agency head may delay automatic declassification for up to 3 years from the date of discovery of classified records that were inadvertently not reviewed prior to the effective date of automatic declassification.

(e) Information exempted from automatic declassification under this section shall remain subject to the mandatory and systematic declassification review provisions of this order.

(f) The Secretary of State shall determine when the United States should commence negotiations with the appropriate officials of a foreign government or international organization of governments to modify any treaty or international agreement that requires the classification of information contained in records affected by this section for a period longer than 25 years from the date of its creation, unless the treaty or international agreement pertains to information that may otherwise remain classified beyond 25 years under this section.

(g) The Secretary of Energy shall determine when information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out provisions of the National Security Act of 1947, as amended, may be declassified. Unless otherwise determined, such information shall be declassified when comparable information concerning the United States nuclear program is declassified.

(h) Not later than 3 years from the effective date of this order, all records exempted from automatic declassification under paragraphs (b) and (c) of this section shall be automatically declassified on December 31 of a year that is no more than 50 years from the date of origin, subject to the following:

(1) Records that contain information the release of which should clearly and demonstrably be expected to reveal the following are exempt from automatic declassification at 50 years:

(A) the identity of a confidential human source or a human intelligence source; or

(B) key design concepts of weapons of mass destruction.

(2) In extraordinary cases, agency heads may, within 5 years of the onset of automatic declassification, propose to exempt additional specific information from declassification at 50 years.

(3) Records exempted from automatic declassification under this paragraph shall be automatically declassified on December 31 of a year that is no more than 75 years from the date of origin unless an agency head, within 5 years of that date, proposes to exempt specific information from declassification at 75 years and the proposal is formally approved by the Panel.

(i) Specific records exempted from automatic declassification prior to the establishment of the Center described in section 3.7 of this order shall be subject to the provisions of paragraph (h) of this section in a scheduled and prioritized manner determined by the Center.

(j) At least 1 year before information is subject to automatic declassification under this section, an agency head or senior agency official shall notify the Director of the Information Security Oversight Office, serving as Executive Secretary of the Panel, of any specific information that the agency proposes to exempt from automatic declassification under paragraphs (b) and (h) of this section.

(1) The notification shall include:

(A) a detailed description of the information, either by reference to information in specific records or in the form of a declassification guide;

(B) an explanation of why the information should be exempt from automatic declassification and must remain classified for a longer period of time; and

(C) a specific date or a specific and independently verifiable event for automatic declassification of spe-

cific records that contain the information proposed for exemption.

(2) The Panel may direct the agency not to exempt the information or to declassify it at an earlier date than recommended. An agency head may appeal such a decision to the President through the National Security Advisor. The information will remain classified while such an appeal is pending.

(k) For information in a file series of records determined not to have permanent historical value, the duration of classification beyond 25 years shall be the same as the disposition (destruction) date of those records in each Agency Records Control Schedule or General Records Schedule, although the duration of classification shall be extended if the record has been retained for business reasons beyond the scheduled disposition date.

SEC. 3.4. *Systematic Declassification Review*.

(a) Each agency that has originated classified information under this order or its predecessors shall establish and conduct a program for systematic declassification review for records of permanent historical value exempted from automatic declassification under section 3.3 of this order. Agencies shall prioritize their review of such records in accordance with priorities established by the Center.

(b) The Archivist shall conduct a systematic declassification review program for classified records:

(1) accessioned into the National Archives; (2) transferred to the Archivist pursuant to 44 U.S.C. 2203; and (3) for which the National Archives serves as the custodian for an agency or organization that has gone out of existence.

SEC. 3.5. *Mandatory Declassification Review*.

(a) Except as provided in paragraph (b) of this section, all information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

(1) the request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;

(2) the document or material containing the information responsive to the request is not contained within an operational file exempted from search and review, publication, and disclosure under 5 U.S.C. 552 in accordance with law; and

(3) the information is not the subject of pending litigation.

(b) Information originated by the incumbent President or the incumbent Vice President; the incumbent President's White House Staff or the incumbent Vice President's Staff; committees, commissions, or boards appointed by the incumbent President; or other entities within the Executive Office of the President that solely advise and assist the incumbent President is exempted from the provisions of paragraph (a) of this section. However, the Archivist shall have the authority to review, downgrade, and declassify papers or records of former Presidents and Vice Presidents under the control of the Archivist pursuant to 44 U.S.C. 2107, 2111, 2111 note, or 2203. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Agencies with primary subject matter interest shall be notified promptly of the Archivist's decision. Any final decision by the Archivist may be appealed by the requester or an agency to the Panel. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information that no longer meets the standards for classification under this order. They shall release this information unless withholding is otherwise authorized and warranted under applicable law.

(d) If an agency has reviewed the requested information for declassification within the past 2 years, the agency need not conduct another review and may instead inform the requester of this fact and the prior review decision and advise the requester of appeal rights provided under subsection (e) of this section.

(e) In accordance with directives issued pursuant to this order, agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They also shall provide a means for administratively appealing a denial of a mandatory review request, and for notifying the requester of the right to appeal a final agency decision to the Panel.

(f) After consultation with affected agencies, the Secretary of Defense shall develop special procedures for the review of cryptologic information; the Director of National Intelligence shall develop special procedures for the review of information pertaining to intelligence sources, methods, and activities; and the Archivist shall develop special procedures for the review of information accessioned into the National Archives.

(g) Documents required to be submitted for prepublication review or other administrative process pursuant to an approved nondisclosure agreement are not covered by this section.

(h) This section shall not apply to any request for a review made to an element of the Intelligence Community that is made by a person other than an individual as that term is defined by 5 U.S.C. 552a(a)(2), or by a foreign government entity or any representative thereof.

SEC. 3.6. *Processing Requests and Reviews*. Notwithstanding section 4.1(i) of this order, in response to a request for information under the Freedom of Information Act, the Presidential Records Act, the Privacy Act of 1974, or the mandatory review provisions of this order:

(a) An agency may refuse to confirm or deny the existence or nonexistence of requested records whenever the fact of their existence or nonexistence is itself classified under this order or its predecessors.

(b) When an agency receives any request for documents in its custody that contain classified information that originated with other agencies or the disclosure of which would affect the interests or activities of other agencies with respect to the classified information, or identifies such documents in the process of implementing sections 3.3 or 3.4 of this order, it shall refer copies of any request and the pertinent documents to the originating agency for processing and may, after consultation with the originating agency, inform any requester of the referral unless such association is itself classified under this order or its predecessors. In cases in which the originating agency determines in writing that a response under paragraph (a) of this section is required, the referring agency shall respond to the requester in accordance with that paragraph.

(c) Agencies may extend the classification of information in records determined not to have permanent historical value or nonrecord materials, including artifacts, beyond the time frames established in sections 1.5(b) and 2.2(f) of this order, provided:

(1) the specific information has been approved pursuant to section 3.3(j) of this order for exemption from automatic declassification; and

(2) the extension does not exceed the date established in section 3.3(j) of this order.

SEC. 3.7. *National Declassification Center*. (a) There is established within the National Archives a National Declassification Center to streamline declassification processes, facilitate quality-assurance measures, and implement standardized training regarding the declassification of records determined to have permanent historical value. There shall be a Director of the Center who shall be appointed or removed by the Archivist in consultation with the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, and the Director of National Intelligence.

(b) Under the administration of the Director, the Center shall coordinate:

(1) timely and appropriate processing of referrals in accordance with section 3.3(d)(3) of this order for accessioned Federal records and transferred presidential records.

(2) general interagency declassification activities necessary to fulfill the requirements of sections 3.3 and 3.4 of this order;

(3) the exchange among agencies of detailed declassification guidance to enable the referral of records in accordance with section 3.3(d)(3) of this order;

(4) the development of effective, transparent, and standard declassification work processes, training, and quality assurance measures;

(5) the development of solutions to declassification challenges posed by electronic records, special media, and emerging technologies;

(6) the linkage and effective utilization of existing agency databases and the use of new technologies to document and make public declassification review decisions and support declassification activities under the purview of the Center; and

(7) storage and related services, on a reimbursable basis, for Federal records containing classified national security information.

(c) Agency heads shall fully cooperate with the Archivist in the activities of the Center and shall:

(1) provide the Director with adequate and current declassification guidance to enable the referral of records in accordance with section 3.3(d)(3) of this order; and

(2) upon request of the Archivist, assign agency personnel to the Center who shall be delegated authority by the agency head to review and exempt or declassify information originated by their agency contained in records accessioned into the National Archives, after consultation with subject-matter experts as necessary.

(d) The Archivist, in consultation with representatives of the participants in the Center and after input from the general public, shall develop priorities for declassification activities under the purview of the Center that take into account the degree of researcher interest and the likelihood of declassification.

(e) Agency heads may establish such centralized facilities and internal operations to conduct internal declassification reviews as appropriate to achieve optimized records management and declassification business processes. Once established, all referral processing of accessioned records shall take place at the Center, and such agency facilities and operations shall be coordinated with the Center to ensure the maximum degree of consistency in policies and procedures that relate to records determined to have permanent historical value.

(f) Agency heads may exempt from automatic declassification or continue the classification of their own originally classified information under section 3.3(a) of this order except that in the case of the Director of National Intelligence, the Director shall also retain such authority with respect to the Intelligence Community.

(g) The Archivist shall, in consultation with the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the Director of the Information Security Oversight Office, provide the National Security Advisor with a detailed concept of operations for the Center and a proposed implementing directive under section 5.1 of this order that reflects the coordinated views of the aforementioned agencies.

PART 4—SAFEGUARDING

SEC. 4.1. *General Restrictions on Access.*

(a) A person may have access to classified information provided that:

(1) a favorable determination of eligibility for access has been made by an agency head or the agency head's designee;

(2) the person has signed an approved nondisclosure agreement; and

(3) the person has a need-to-know the information.

(b) Every person who has met the standards for access to classified information in paragraph (a) of this section shall receive contemporaneous training on the proper safeguarding of classified information and on the criminal, civil, and administrative sanctions that may be imposed on an individual who fails to protect classified information from unauthorized disclosure.

(c) An official or employee leaving agency service may not remove classified information from the agency's control or direct that information be declassified in order to remove it from agency control.

(d) Classified information may not be removed from official premises without proper authorization.

(e) Persons authorized to disseminate classified information outside the executive branch shall ensure the protection of the information in a manner equivalent to that provided within the executive branch.

(f) Consistent with law, executive orders, directives, and regulations, an agency head or senior agency official or, with respect to the Intelligence Community, the Director of National Intelligence, shall establish uniform procedures to ensure that automated information systems, including networks and telecommunications systems, that collect, create, communicate, compute, disseminate, process, or store classified information:

(1) prevent access by unauthorized persons;

(2) ensure the integrity of the information; and

(3) to the maximum extent practicable, use:

(A) common information technology standards, protocols, and interfaces that maximize the availability of, and access to, the information in a form and manner that facilitates its authorized use; and

(B) standardized electronic formats to maximize the accessibility of information to persons who meet the criteria set forth in section 4.1(a) of this order.

(g) Consistent with law, executive orders, directives, and regulations, each agency head or senior agency official, or with respect to the Intelligence Community, the Director of National Intelligence, shall establish controls to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed under conditions that provide adequate protection and prevent access by unauthorized persons.

(h) Consistent with directives issued pursuant to this order, an agency shall safeguard foreign government information under standards that provide a degree of protection at least equivalent to that required by the government or international organization of governments that furnished the information. When adequate to achieve equivalency, these standards may be less restrictive than the safeguarding standards that ordinarily apply to U.S. ''Confidential'' information, including modified handling and transmission and allowing access to individuals with a need-to-know who have not otherwise been cleared for access to classified information or executed an approved nondisclosure agreement.

(i)(1) Classified information originating in one agency may be disseminated to another agency or U.S. entity by any agency to which it has been made available without the consent of the originating agency, as long as the criteria for access under section 4.1(a) of this order are met, unless the originating agency has determined that prior authorization is required for such dissemination and has marked or indicated such requirement on the medium containing the classified information in accordance with implementing directives issued pursuant to this order.

(2) Classified information originating in one agency may be disseminated by any other agency to which it has been made available to a foreign government in accordance with statute, this order, directives implementing this order, direction of the President, or with the consent of the originating agency. For the purposes of this section, ''foreign government'' includes any element of a foreign government, or an international organization of governments, or any element thereof.

(3) Documents created prior to the effective date of this order shall not be disseminated outside any other agency to which they have been made available without the consent of the originating agency. An agency

head or senior agency official may waive this requirement for specific information that originated within that agency.

(4) For purposes of this section, the Department of Defense shall be considered one agency, except that any dissemination of information regarding intelligence sources, methods, or activities shall be consistent with directives issued pursuant to section 6.2(b) of this order.

(5) Prior consent of the originating agency is not required when referring records for declassification review that contain information originating in more than one agency.

SEC. 4.2 *Distribution Controls*.

(a) The head of each agency shall establish procedures in accordance with applicable law and consistent with directives issued pursuant to this order to ensure that classified information is accessible to the maximum extent possible by individuals who meet the criteria set forth in section 4.1(a) of this order.

(b) In an emergency, when necessary to respond to an imminent threat to life or in defense of the homeland, the agency head or any designee may authorize the disclosure of classified information (including information marked pursuant to section 4.1(i)(1) of this order) to an individual or individuals who are otherwise not eligible for access. Such actions shall be taken only in accordance with directives implementing this order and any procedure issued by agencies governing the classified information, which shall be designed to minimize the classified information that is disclosed under these circumstances and the number of individuals who receive it. Information disclosed under this provision or implementing directives and procedures shall not be deemed declassified as a result of such disclosure or subsequent use by a recipient. Such disclosures shall be reported promptly to the originator of the classified information. For purposes of this section, the Director of National Intelligence may issue an implementing directive governing the emergency disclosure of classified intelligence information.

(c) Each agency shall update, at least annually, the automatic, routine, or recurring distribution mechanism for classified information that it distributes. Recipients shall cooperate fully with distributors who are updating distribution lists and shall notify distributors whenever a relevant change in status occurs.

SEC. 4.3. *Special Access Programs*. (a) Establishment of special access programs. Unless otherwise authorized by the President, only the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, and the Director of National Intelligence, or the principal deputy of each, may create a special access program. For special access programs pertaining to intelligence sources, methods, and activities (but not including military operational, strategic, and tactical programs), this function shall be exercised by the Director of National Intelligence. These officials shall keep the number of these programs at an absolute minimum, and shall establish them only when the program is required by statute or upon a specific finding that:

(1) the vulnerability of, or threat to, specific information is exceptional; and

(2) the normal criteria for determining eligibility for access applicable to information classified at the same level are not deemed sufficient to protect the information from unauthorized disclosure.

(b) Requirements and limitations.

(1) Special access programs shall be limited to programs in which the number of persons who ordinarily will have access will be reasonably small and commensurate with the objective of providing enhanced protection for the information involved.

(2) Each agency head shall establish and maintain a system of accounting for special access programs consistent with directives issued pursuant to this order.

(3) Special access programs shall be subject to the oversight program established under section 5.4(d) of this order. In addition, the Director of the Information Security Oversight Office shall be afforded access to these programs, in accordance with the security requirements of each program, in order to perform the functions assigned to the Information Security Oversight Office under this order. An agency head may limit access to a special access program to the Director of the Information Security Oversight Office and no more than one other employee of the Information Security Oversight Office or, for special access programs that are extraordinarily sensitive and vulnerable, to the Director only.

(4) The agency head or principal deputy shall review annually each special access program to determine whether it continues to meet the requirements of this order.

(5) Upon request, an agency head shall brief the National Security Advisor, or a designee, on any or all of the agency's special access programs.

(6) For the purposes of this section, the term ''agency head'' refers only to the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, and the Director of National Intelligence, or the principal deputy of each.

(c) Nothing in this order shall supersede any requirement made by or under 10 U.S.C. 119.

SEC. 4.4. *Access by Historical Researchers and Certain Former Government Personnel*.

(a) The requirement in section 4.1(a)(3) of this order that access to classified information may be granted only to individuals who have a need-to-know the information may be waived for persons who:

(1) are engaged in historical research projects;

(2) previously have occupied senior policy-making positions to which they were appointed or designated by the President or the Vice President; or

(3) served as President or Vice President.

(b) Waivers under this section may be granted only if the agency head or senior agency official of the originating agency:

(1) determines in writing that access is consistent with the interest of the national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this order; and

(3) limits the access granted to former Presidential appointees or designees and Vice Presidential appointees or designees to items that the person originated, reviewed, signed, or received while serving as a Presidential or Vice Presidential appointee or designee.

PART 5—IMPLEMENTATION AND REVIEW

SEC. 5.1. *Program Direction*. (a) The Director of the Information Security Oversight Office, under the direction of the Archivist and in consultation with the National Security Advisor, shall issue such directives as are necessary to implement this order. These directives shall be binding on the agencies. Directives issued by the Director of the Information Security Oversight Office shall establish standards for:

(1) classification, declassification, and marking principles;

(2) safeguarding classified information, which shall pertain to the handling, storage, distribution, transmittal, and destruction of and accounting for classified information;

(3) agency security education and training programs;

(4) agency self-inspection programs; and

(5) classification and declassification guides.

(b) The Archivist shall delegate the implementation and monitoring functions of this program to the Director of the Information Security Oversight Office.

(c) The Director of National Intelligence, after consultation with the heads of affected agencies and the Director of the Information Security Oversight Office, may issue directives to implement this order with respect to the protection of intelligence sources, methods, and activities. Such directives shall be consistent with this order and directives issued under paragraph (a) of this section.

SEC. 5.2. *Information Security Oversight Office*. (a) There is established within the National Archives an

Information Security Oversight Office. The Archivist shall appoint the Director of the Information Security Oversight Office, subject to the approval of the President.

(b) Under the direction of the Archivist, acting in consultation with the National Security Advisor, the Director of the Information Security Oversight Office shall:

(1) develop directives for the implementation of this order;

(2) oversee agency actions to ensure compliance with this order and its implementing directives;

(3) review and approve agency implementing regulations prior to their issuance to ensure their consistency with this order and directives issued under section 5.1(a) of this order;

(4) have the authority to conduct on-site reviews of each agency's program established under this order, and to require of each agency those reports and information and other cooperation that may be necessary to fulfill its responsibilities. If granting access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior agency official shall submit a written justification recommending the denial of access to the President through the National Security Advisor within 60 days of the request for access. Access shall be denied pending the response;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend Presidential approval through the National Security Advisor;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the program established under this order;

(7) have the authority to prescribe, after consultation with affected agencies, standardization of forms or procedures that will promote the implementation of the program established under this order;

(8) report at least annually to the President on the implementation of this order; and

(9) convene and chair interagency meetings to discuss matters pertaining to the program established by this order.

SEC. 5.3. *Interagency Security Classification Appeals Panel.*

(a) Establishment and administration.

(1) There is established an Interagency Security Classification Appeals Panel. The Departments of State, Defense, and Justice, the National Archives, the Office of the Director of National Intelligence, and the National Security Advisor shall each be represented by a senior-level representative who is a full-time or permanent part-time Federal officer or employee designated to serve as a member of the Panel by the respective agency head. The President shall designate a Chair from among the members of the Panel.

(2) Additionally, the Director of the Central Intelligence Agency may appoint a temporary representative who meets the criteria in paragraph (a)(1) of this section to participate as a voting member in all Panel deliberations and associated support activities concerning classified information originated by the Central Intelligence Agency.

(3) A vacancy on the Panel shall be filled as quickly as possible as provided in paragraph (a)(1) of this section.

(4) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Panel. The staff of the Information Security Oversight Office shall provide program and administrative support for the Panel.

(5) The members and staff of the Panel shall be required to meet eligibility for access standards in order to fulfill the Panel's functions.

(6) The Panel shall meet at the call of the Chair. The Chair shall schedule meetings as may be necessary for the Panel to fulfill its functions in a timely manner.

(7) The Information Security Oversight Office shall include in its reports to the President a summary of the Panel's activities.

(b) Functions. The Panel shall:

(1) decide on appeals by persons who have filed classification challenges under section 1.8 of this order;

(2) approve, deny, or amend agency exemptions from automatic declassification as provided in section 3.3 of this order;

(3) decide on appeals by persons or entities who have filed requests for mandatory declassification review under section 3.5 of this order; and

(4) appropriately inform senior agency officials and the public of final Panel decisions on appeals under sections 1.8 and 3.5 of this order.

(c) Rules and procedures. The Panel shall issue bylaws, which shall be published in the Federal Register. The bylaws shall establish the rules and procedures that the Panel will follow in accepting, considering, and issuing decisions on appeals. The rules and procedures of the Panel shall provide that the Panel will consider appeals only on actions in which:

(1) the appellant has exhausted his or her administrative remedies within the responsible agency;

(2) there is no current action pending on the issue within the Federal courts; and

(3) the information has not been the subject of review by the Federal courts or the Panel within the past 2 years.

(d) Agency heads shall cooperate fully with the Panel so that it can fulfill its functions in a timely and fully informed manner. The Panel shall report to the President through the National Security Advisor any instance in which it believes that an agency head is not cooperating fully with the Panel.

(e) The Panel is established for the sole purpose of advising and assisting the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States. Panel decisions are committed to the discretion of the Panel, unless changed by the President.

(f) An agency head may appeal a decision of the Panel to the President through the National Security Advisor. The information shall remain classified pending a decision on the appeal.

SEC. 5.4. *General Responsibilities.* Heads of agencies that originate or handle classified information shall:

(a) demonstrate personal commitment and commit senior management to the successful implementation of the program established under this order;

(b) commit necessary resources to the effective implementation of the program established under this order;

(c) ensure that agency records systems are designed and maintained to optimize the appropriate sharing and safeguarding of classified information, and to facilitate its declassification under the terms of this order when it no longer meets the standards for continued classification; and

(d) designate a senior agency official to direct and administer the program, whose responsibilities shall include:

(1) overseeing the agency's program established under this order, provided an agency head may designate a separate official to oversee special access programs authorized under this order. This official shall provide a full accounting of the agency's special access programs at least annually;

(2) promulgating implementing regulations, which shall be published in the Federal Register to the extent that they affect members of the public;

(3) establishing and maintaining security education and training programs;

(4) establishing and maintaining an ongoing self-inspection program, which shall include the regular reviews of representative samples of the agency's original and derivative classification actions, and shall authorize appropriate agency officials to correct misclassification actions not covered by sections 1.7(c) and 1.7(d) of this order; and reporting annually to the

Director of the Information Security Oversight Office on the agency's self-inspection program;

(5) establishing procedures consistent with directives issued pursuant to this order to prevent unnecessary access to classified information, including procedures that:

(A) require that a need for access to classified information be established before initiating administrative clearance procedures; and

(B) ensure that the number of persons granted access to classified information meets the mission needs of the agency while also satisfying operational and security requirements and needs;

(6) developing special contingency plans for the safeguarding of classified information used in or near hostile or potentially hostile areas;

(7) ensuring that the performance contract or other system used to rate civilian or military personnel performance includes the designation and management of classified information as a critical element or item to be evaluated in the rating of:

(A) original classification authorities;

(B) security managers or security specialists; and

(C) all other personnel whose duties significantly involve the creation or handling of classified information, including personnel who regularly apply derivative classification markings;

(8) accounting for the costs associated with the implementation of this order, which shall be reported to the Director of the Information Security Oversight Office for publication;

(9) assigning in a prompt manner agency personnel to respond to any request, appeal, challenge, complaint, or suggestion arising out of this order that pertains to classified information that originated in a component of the agency that no longer exists and for which there is no clear successor in function; and

(10) establishing a secure capability to receive information, allegations, or complaints regarding over-classification or incorrect classification within the agency and to provide guidance to personnel on proper classification as needed.

SEC. 5.5. *Sanctions*. (a) If the Director of the Information Security Oversight Office finds that a violation of this order or its implementing directives has occurred, the Director shall make a report to the head of the agency or to the senior agency official so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, certificate holders, and grantees shall be subject to appropriate sanctions if they knowingly, willfully, or negligently:

(1) disclose to unauthorized persons information properly classified under this order or predecessor orders;

(2) classify or continue the classification of information in violation of this order or any implementing directive;

(3) create or continue a special access program contrary to the requirements of this order; or

(4) contravene any other provision of this order or its implementing directives.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) The agency head, senior agency official, or other supervisory official shall, at a minimum, promptly remove the classification authority of any individual who demonstrates reckless disregard or a pattern of error in applying the classification standards of this order.

(e) The agency head or senior agency official shall:

(1) take appropriate and prompt corrective action when a violation or infraction under paragraph (b) of this section occurs; and

(2) notify the Director of the Information Security Oversight Office when a violation under paragraph (b)(1), (2), or (3) of this section occurs.

PART 6—GENERAL PROVISIONS

SEC. 6.1. *Definitions*. For purposes of this order:

(a) ''Access'' means the ability or opportunity to gain knowledge of classified information.

(b) ''Agency'' means any ''Executive agency,'' as defined in 5 U.S.C. 105; any ''Military department'' as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

(c) ''Authorized holder'' of classified information means anyone who satisfies the conditions for access stated in section 4.1(a) of this order.

(d) ''Automated information system'' means an assembly of computer hardware, software, or firmware configured to collect, create, communicate, compute, disseminate, process, store, or control data or information.

(e) ''Automatic declassification'' means the declassification of information based solely upon:

(1) the occurrence of a specific date or event as determined by the original classification authority; or

(2) the expiration of a maximum time frame for duration of classification established under this order.

(f) ''Classification'' means the act or process by which information is determined to be classified information.

(g) ''Classification guidance'' means any instruction or source that prescribes the classification of specific information.

(h) ''Classification guide'' means a documentary form of classification guidance issued by an original classification authority that identifies the elements of information regarding a specific subject that must be classified and establishes the level and duration of classification for each such element.

(i) ''Classified national security information'' or ''classified information'' means information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(j) ''Compilation'' means an aggregation of preexisting unclassified items of information.

(k) ''Confidential source'' means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation that the information or relationship, or both, are to be held in confidence.

(*l*) ''Damage to the national security'' means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.

(m) ''Declassification'' means the authorized change in the status of information from classified information to unclassified information.

(n) ''Declassification guide'' means written instructions issued by a declassification authority that describes the elements of information regarding a specific subject that may be declassified and the elements that must remain classified.

(*o*) ''Derivative classification'' means the incorporating, paraphrasing, restating, or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.

(p) ''Document'' means any recorded information, regardless of the nature of the medium or the method or circumstances of recording.

(q) ''Downgrading'' means a determination by a declassification authority that information classified and safeguarded at a specified level shall be classified and safeguarded at a lower level.

(r) ''File series'' means file units or documents arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind

of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access or use.

(s) ''Foreign government information'' means:

(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) information produced by the United States Government pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) information received and treated as ''foreign government information'' under the terms of a predecessor order.

(t) ''Information'' means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, is produced by or for, or is under the control of the United States Government.

(u) ''Infraction'' means any knowing, willful, or negligent action contrary to the requirements of this order or its implementing directives that does not constitute a ''violation,'' as defined below.

(v) ''Integral file block'' means a distinct component of a file series, as defined in this section, that should be maintained as a separate unit in order to ensure the integrity of the records. An integral file block may consist of a set of records covering either a specific topic or a range of time, such as a Presidential administration or a 5-year retirement schedule within a specific file series that is retired from active use as a group. For purposes of automatic declassification, integral file blocks shall contain only records dated within 10 years of the oldest record in the file block.

(w) ''Integrity'' means the state that exists when information is unchanged from its source and has not been accidentally or intentionally modified, altered, or destroyed.

(x) ''Intelligence'' includes foreign intelligence and counterintelligence as defined by Executive Order 12333 of December 4, 1981, as amended, or by a successor order.

(y) ''Intelligence activities'' means all activities that elements of the Intelligence Community are authorized to conduct pursuant to law or Executive Order 12333, as amended, or a successor order.

(z) ''Intelligence Community'' means an element or agency of the U.S. Government identified in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended, or section 3.5(h) of Executive Order 12333, as amended.

(aa) ''Mandatory declassification review'' means the review for declassification of classified information in response to a request for declassification that meets the requirements under section 3.5 of this order.

(bb) ''Multiple sources'' means two or more source documents, classification guides, or a combination of both.

(cc) ''National security'' means the national defense or foreign relations of the United States.

(dd) ''Need-to-know'' means a determination within the executive branch in accordance with directives issued pursuant to this order that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(ee) ''Network'' means a system of two or more computers that can exchange data or information.

(ff) ''Original classification'' means an initial determination that information requires, in the interest of the national security, protection against unauthorized disclosure.

(gg) ''Original classification authority'' means an individual authorized in writing, either by the President, the Vice President, or by agency heads or other officials designated by the President, to classify information in the first instance.

(hh) ''Records'' means the records of an agency and Presidential papers or Presidential records, as those terms are defined in title 44, United States Code, including those created or maintained by a government contractor, licensee, certificate holder, or grantee that are subject to the sponsoring agency's control under the terms of the contract, license, certificate, or grant.

(ii) ''Records having permanent historical value'' means Presidential papers or Presidential records and the records of an agency that the Archivist has determined should be maintained permanently in accordance with title 44, United States Code.

(jj) ''Records management'' means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

(kk) ''Safeguarding'' means measures and controls that are prescribed to protect classified information.

(*ll*) ''Self-inspection'' means the internal review and evaluation of individual agency activities and the agency as a whole with respect to the implementation of the program established under this order and its implementing directives.

(mm) ''Senior agency official'' means the official designated by the agency head under section 5.4(d) of this order to direct and administer the agency's program under which information is classified, safeguarded, and declassified.

(nn) ''Source document'' means an existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.

(*oo*) ''Special access program'' means a program established for a specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.

(pp) ''Systematic declassification review'' means the review for declassification of classified information contained in records that have been determined by the Archivist to have permanent historical value in accordance with title 44, United States Code.

(qq) ''Telecommunications'' means the preparation, transmission, or communication of information by electronic means.

(rr) ''Unauthorized disclosure'' means a communication or physical transfer of classified information to an unauthorized recipient.

(ss) ''U.S. entity'' includes:

(1) State, local, or tribal governments;

(2) State, local, and tribal law enforcement and firefighting entities;

(3) public health and medical entities;

(4) regional, state, local, and tribal emergency management entities, including State Adjutants General and other appropriate public safety entities; or

(5) private sector entities serving as part of the nation's Critical Infrastructure/Key Resources.

(tt) ''Violation'' means:

(1) any knowing, willful, or negligent action that could reasonably be expected to result in an unauthorized disclosure of classified information;

(2) any knowing, willful, or negligent action to classify or continue the classification of information contrary to the requirements of this order or its implementing directives; or

(3) any knowing, willful, or negligent action to create or continue a special access program contrary to the requirements of this order.

(uu) ''Weapons of mass destruction'' means any weapon of mass destruction as defined in 50 U.S.C. 1801(p).

SEC. 6.2. *General Provisions.* (a) Nothing in this order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended, or the National

Security Act of 1947, as amended. ''Restricted Data'' and ''Formerly Restricted Data'' shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Director of National Intelligence may, with respect to the Intelligence Community and after consultation with the heads of affected departments and agencies, issue such policy directives and guidelines as the Director of National Intelligence deems necessary to implement this order with respect to the classification and declassification of all intelligence and intelligence-related information, and for access to and dissemination of all intelligence and intelligence-related information, both in its final form and in the form when initially gathered. Procedures or other guidance issued by Intelligence Community element heads shall be in accordance with such policy directives or guidelines issued by the Director of National Intelligence. Any such policy directives or guidelines issued by the Director of National Intelligence shall be in accordance with directives issued by the Director of the Information Security Oversight Office under section 5.1(a) of this order.

(c) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(d) Nothing in this order limits the protection afforded any information by other provisions of law, including the Constitution, Freedom of Information Act exemptions, the Privacy Act of 1974, and the National Security Act of 1947, as amended. This order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. The foregoing is in addition to the specific provisos set forth in sections 1.1(b), 3.1(c) and 5.3(e) of this order.

(e) Nothing in this order shall be construed to obligate action or otherwise affect functions by the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented subject to the availability of appropriations.

(g) Executive Order 12958 of April 17, 1995, and amendments thereto, including Executive Order 13292 of March 25, 2003, are hereby revoked as of the effective date of this order.

SEC. 6.3. *Effective Date*. This order is effective 180 days from the date of this order, except for sections 1.7, 3.3, and 3.7, which are effective immediately.

SEC. 6.4. *Publication*. The Archivist of the United States shall publish this Executive Order in the Federal Register.

BARACK OBAMA.

EX. ORD. NO. 13549. CLASSIFIED NATIONAL SECURITY INFORMATION PROGRAM FOR STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR ENTITIES

Ex. Ord. No. 13549, Aug. 18, 2010, 75 F.R. 51609, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to ensure the proper safeguarding of information shared with State, local, tribal, and private sector entities, it is hereby ordered as follows:

SECTION 1. *Establishment and Policy*.

SEC. 1.1. There is established a Classified National Security Information Program (Program) designed to safeguard and govern access to classified national security information shared by the Federal Government with State, local, tribal, and private sector (SLTPS) entities.

SEC. 1.2. The purpose of this order is to ensure that security standards governing access to and safeguarding of classified material are applied in accordance with Executive Order 13526 of December 29, 2009 (''Classified National Security Information''), Executive Order 12968 of August 2, 1995, as amended (''Access to Classified Information''), Executive Order 13467 of June 30, 2008 (''Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information''), and Executive Order 12829 of January 6, 1993, as amended (''National Industrial Security Program''). Procedures for uniform implementation of these standards by SLTPS entities shall be set forth in an implementing directive to be issued by the Secretary of Homeland Security within 180 days of the date of this order, in consultation with affected executive departments and agencies (agencies), and with the concurrence of the Secretary of Defense, the Attorney General, the Director of National Intelligence, and the Director of the Information Security Oversight Office.

SEC. 1.3. Additional policy provisions for access to and safeguarding of classified information shared with SLTPS personnel include the following:

(a) Eligibility for access to classified information by SLTPS personnel shall be determined by a sponsoring agency. The level of access granted shall not exceed the Secret level, unless the sponsoring agency determines on a case-by-case basis that the applicant has a demonstrated and foreseeable need for access to Top Secret, Special Access Program, or Sensitive Compartmented Information.

(b) Upon the execution of a non-disclosure agreement prescribed by the Information Security Oversight Office or the Director of National Intelligence, and absent disqualifying conduct as determined by the clearance granting official, a duly elected or appointed Governor of a State or territory, or an official who has succeeded to that office under applicable law, may be granted access to classified information without a background investigation in accordance with the implementing directive for this order. This authorization of access may not be further delegated by the Governor to any other person.

(c) All clearances granted to SLTPS personnel, as well as accreditations granted to SLTPS facilities without a waiver, shall be accepted reciprocally by all agencies and SLTPS entities.

(d) Physical custody of classified information by State, local, and tribal (SLT) entities shall be limited to Secret information unless the location housing the information is under the full-time management, control, and operation of the Department of Homeland Security or another agency. A standard security agreement, established by the Department of Homeland Security in consultation with the SLTPS Advisory Committee, shall be executed between the head of the SLT entity and the U.S. Government for those locations where the SLT entity will maintain physical custody of classified information.

(e) State, local, and tribal facilities where classified information is or will be used or stored shall be inspected, accredited, and monitored for compliance with established standards, in accordance with Executive Order 13526 and the implementing directive for this order, by the Department of Homeland Security or another agency that has entered into an agreement with the Department of Homeland Security to perform such inspection, accreditation, and monitoring.

(f) Private sector facilities where classified information is or will be used or stored shall be inspected, accredited, and monitored for compliance with standards established pursuant to Executive Order 12829, as amended, by the Department of Defense or the cognizant security agency under Executive Order 12829, as amended.

(g) Access to information systems that store, process, or transmit classified information shall be enforced by the rules established by the agency that controls the system and consistent with approved dissemination and handling markings applied by originators, separate

from and in addition to criteria for determining eligibility for access to classified information. Access to information within restricted portals shall be based on criteria applied by the agency that controls the portal and consistent with approved dissemination and handling markings applied by originators.

(h) The National Industrial Security Program established in Executive Order 12829, as amended, shall govern the access to and safeguarding of classified information that is released to contractors, licensees, and grantees of SLT entities.

(i) All access eligibility determinations and facility security accreditations granted prior to the date of this order that do not meet the standards set forth in this order or its implementing directive shall be reconciled with those standards within a reasonable period.

(j) Pursuant to section 4.1(i)(3) of Executive Order 13526, documents created prior to the effective date of Executive Order 13526 shall not be re-disseminated to other entities without the consent of the originating agency. An agency head or senior agency official may waive this requirement for specific information that originated within that agency.

SEC. 2. *Policy Direction*. With policy guidance from the National Security Advisor and in consultation with the Director of the Information Security Oversight Office, the Director of the Office of Management and Budget, and the heads of affected agencies, the Secretary of Homeland Security shall serve as the Executive Agent for the Program. This order does not displace any authorities provided by law or Executive Order and the Executive Agent shall, to the extent practicable, make use of existing structures and authorities to preclude duplication and to ensure efficiency.

SEC. 3. *SLTPS Policy Advisory Committee*. (a) There is established an SLTPS Policy Advisory Committee (Committee) to discuss Program-related policy issues in dispute in order to facilitate their resolution and to otherwise recommend changes to policies and procedures that are designed to remove undue impediments to the sharing of information under the Program. The Director of the Information Security Oversight Office shall serve as Chair of the Committee. An official designated by the Secretary of Homeland Security and a representative of SLTPS entities shall serve as Vice Chairs of the Committee. Members of the Committee shall include designees of the heads of the Departments of State, Defense, Justice, Transportation, and Energy, the Nuclear Regulatory Commission, the Office of the Director of National Intelligence, the Central Intelligence Agency, and the Federal Bureau of Investigation. Members shall also include employees of other agencies and representatives of SLTPS entities, as nominated by any Committee member and approved by the Chair.

(b) Members of the Committee shall serve without compensation for their work on the Committee, except that any representatives of SLTPS entities may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(c) The Information Security Oversight Office shall provide staff support to the Committee.

(d) Insofar as the Federal Advisory Committee Act, as amended (5 App. U.S.C.) (the ''Act'') may apply to this order, any functions of the President under that Act, except that of reporting to the Congress, which are applicable to the Committee, shall be performed by the Administrator of General Services in accordance with guidelines and procedures established by the General Services Administration.

SEC. 4. *Operations and Oversight*. (a) The Executive Agent for the Program shall perform the following responsibilities:

(1) overall program management and oversight;

(2) accreditation, periodic inspection, and monitoring of all facilities owned or operated by SLT entities that have access to classified information, except when another agency has entered into an agreement with the Department of Homeland Security to perform some or all of these functions;

(3) processing of security clearance applications by SLTPS personnel, when requested by a sponsoring agency, on a reimbursable basis unless otherwise determined by the Department of Homeland Security and the sponsoring agency;

(4) documenting and tracking the final status of security clearances for all SLTPS personnel in consultation with the Office of Personnel Management, the Department of Defense, and the Office of the Director of National Intelligence;

(5) developing and maintaining a security profile of SLT facilities that have access to classified information; and

(6) developing training, in consultation with the Committee, for all SLTPS personnel who have been determined eligible for access to classified information, which shall cover the proper safeguarding of classified information and sanctions for unauthorized disclosure of classified information.

(b) The Secretary of Defense, or the cognizant security agency under Executive Order 12829, as amended, shall provide program management, oversight, inspection, accreditation, and monitoring of all private sector facilities that have access to classified information.

(c) The Director of National Intelligence may inspect and monitor SLTPS programs and facilities that involve access to information regarding intelligence sources, methods, and activities.

(d) Heads of agencies that sponsor SLTPS personnel and facilities for access to and storage of classified information under section 1.3(a) of this order shall:

(1) ensure on a periodic basis that there is a demonstrated, foreseeable need for such access; and

(2) provide the Secretary of Homeland Security with information, as requested by the Secretary, about SLTPS personnel sponsored for security clearances and SLT facilities approved for use of classified information prior to and after the date of this order, except when the disclosure of the association of a specific individual with an intelligence or law enforcement agency must be protected in the interest of national security, as determined by the intelligence or law enforcement agency.

SEC. 5. *Definitions*. For purposes of this order:

(a) ''Access'' means the ability or opportunity to gain knowledge of classified information.

(b) ''Agency'' means any ''Executive agency'' as defined in 5 U.S.C. 105; any military department as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into possession of classified information.

(c) ''Classified National Security Information'' or ''classified information'' means information that has been determined pursuant to Executive Order 13526, or any predecessor or successor order, to require protection against unauthorized disclosure, and is marked to indicate its classified status when in documentary form.

(d) ''Information'' means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(e) ''Intelligence activities'' means all activities that elements of the Intelligence Community are authorized to conduct pursuant to law or Executive Order 12333, as amended, or a successor order.

(f) ''Local'' entities refers to ''(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; and (B) a rural community, unincorporated town or village, or other public entity'' as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101(11)).

(g) ''Private sector'' means persons outside government who are critically involved in ensuring that public and private preparedness and response efforts are integrated as part of the Nation's Critical Infrastructure or Key Resources (CIKR), including:

(1) corporate owners and operators determined by the Secretary of Homeland Security to be part of the CIKR;

(2) subject matter experts selected to assist the Federal or State CIKR;

(3) personnel serving in specific leadership positions of CIKR coordination, operations, and oversight;

(4) employees of corporate entities relating to the protection of CIKR; or

(5) other persons not otherwise eligible for the granting of a personnel security clearance pursuant to Executive Order 12829, as amended, who are determined by the Secretary of Homeland Security to require a personnel security clearance.

(h) ''Restricted portal'' means a protected community of interest or similar area housed within an information system and to which access is controlled by a host agency different from the agency that controls the information system.

(i) ''Sponsoring Agency'' means an agency that recommends access to or possession of classified information by SLTPS personnel.

(j) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States, as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101(15)).

(k) ''State, local, and tribal personnel'' means any of the following persons:

(1) Governors, mayors, tribal leaders, and other elected or appointed officials of a State, local government, or tribe;

(2) State, local, and tribal law enforcement personnel and firefighters;

(3) public health, radiological health, and medical professionals of a State, local government, or tribe; and

(4) regional, State, local, and tribal emergency management agency personnel, including State Adjutants General and other appropriate public safety personnel and those personnel providing support to a Federal CIKR mission.

(l) ''Tribe'' means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe as defined in the Federally Recognized [Indian] Tribe List Act of 1994 (25 U.S.C. 479a(2)).

(m) ''United States'' when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States and any waters within the territorial jurisdiction of the United States.

SEC. 6. *General Provisions*. (a) This order does not change the requirements of Executive Orders 13526, 12968, 13467, or 12829, as amended, and their successor orders and directives.

(b) Nothing in this order shall be construed to supersede or change the authorities of the Secretary of Energy or the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*); the Secretary of Defense under Executive Order 12829, as amended; the Director of the Information Security Oversight Office under Executive Order 13526 and Executive Order 12829, as amended; the Attorney General under title 18, United States Code, and the Foreign Intelligence Surveillance Act [of 1978] (50 U.S.C. 1801 *et seq.*); the Secretary of State under title 22, United States Code, and the Omnibus Diplomatic Security and Antiterrorism Act of 1986; or the Director of National Intelligence under the National Security Act of 1947, as amended, Executive Order 12333, as amended, Executive Order 12968, as amended, Executive Order 13467, and Executive Order 13526.

(c) Nothing in this order shall limit the authority of an agency head, or the agency head's designee, to authorize in an emergency and when necessary to respond to an imminent threat to life or in defense of the homeland, in accordance with section 4.2(b) of Executive Order 13526, the disclosure of classified information to an individual or individuals who are otherwise not eligible for access in accordance with the provisions of Executive Order 12968.

(d) Consistent with section 892(a)(4) of the Homeland Security Act of 2002 (6 U.S.C. 482(a)(4)), nothing in this order shall be interpreted as changing the requirements and authorities to protect sources and methods.

(e) Nothing in this order shall supersede measures established under the authority of law or Executive Order to protect the security and integrity of specific activities and associations that are in direct support of intelligence operations.

(f) Pursuant to section 892(e) of the Homeland Security Act of 2002 (6 U.S.C. 482(e)), all information provided to an SLTPS entity from an agency shall remain under the control of the Federal Government. Any State or local law authorizing or requiring disclosure shall not apply to such information.

(g) Nothing in this order limits the protection afforded any classified information by other provisions of law. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(h) Nothing in this order shall be construed to obligate action or otherwise affect functions by the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(i) This order shall be implemented subject to the availability of appropriations and consistent with procedures approved by the Attorney General pursuant to Executive Order 12333, as amended.

SEC. 7. *Effective Date*. This order is effective 180 days from the date of this order with the exception of section 3, which is effective immediately.

BARACK OBAMA.

EXTENSION OF TERM OF STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR POLICY ADVISORY COMMITTEE

Term of State, Local, Tribal, and Private Sector Policy Advisory Committee extended until Sept. 30, 2013, by Ex. Ord. No. 13591, Nov. 23, 2011, 76 F.R. 74623, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of State, Local, Tribal, and Private Sector Policy Advisory Committee extended until Sept. 30, 2015, by Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

EX. ORD. NO. 13587. STRUCTURAL REFORMS TO IMPROVE THE SECURITY OF CLASSIFIED NETWORKS AND THE RESPONSIBLE SHARING AND SAFEGUARDING OF CLASSIFIED INFORMATION

Ex. Ord. No. 13587, Oct. 7, 2011, 76 F.R. 63811, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to ensure the responsible sharing and safeguarding of classified national security information (classified information) on computer networks, it is hereby ordered as follows:

SECTION 1. *Policy*. Our Nation's security requires classified information to be shared immediately with authorized users around the world but also requires sophisticated and vigilant means to ensure it is shared securely. Computer networks have individual and common vulnerabilities that require coordinated decisions on risk management.

This order directs structural reforms to ensure responsible sharing and safeguarding of classified information on computer networks that shall be consistent

with appropriate protections for privacy and civil liberties. Agencies bear the primary responsibility for meeting these twin goals. These structural reforms will ensure coordinated interagency development and reliable implementation of policies and minimum standards regarding information security, personnel security, and systems security; address both internal and external security threats and vulnerabilities; and provide policies and minimum standards for sharing classified information both within and outside the Federal Government. These policies and minimum standards will address all agencies that operate or access classified computer networks, all users of classified computer networks (including contractors and others who operate or access classified computer networks controlled by the Federal Government), and all classified information on those networks.

SEC. 2. *General Responsibilities of Agencies*.

SEC. 2.1. The heads of agencies that operate or access classified computer networks shall have responsibility for appropriately sharing and safeguarding classified information on computer networks. As part of this responsibility, they shall:

(a) designate a senior official to be charged with overseeing classified information sharing and safeguarding efforts for the agency;

(b) implement an insider threat detection and prevention program consistent with guidance and standards developed by the Insider Threat Task Force established in section 6 of this order;

(c) perform self-assessments of compliance with policies and standards issued pursuant to sections 3.3, 5.2, and 6.3 of this order, as well as other applicable policies and standards, the results of which shall be reported annually to the Senior Information Sharing and Safeguarding Steering Committee established in section 3 of this order;

(d) provide information and access, as warranted and consistent with law and section 7(d) of this order, to enable independent assessments by the Executive Agent for Safeguarding Classified Information on Computer Networks and the Insider Threat Task Force of compliance with relevant established policies and standards; and

(e) detail or assign staff as appropriate and necessary to the Classified Information Sharing and Safeguarding Office and the Insider Threat Task Force on an ongoing basis.

SEC. 3. *Senior Information Sharing and Safeguarding Steering Committee*.

SEC. 3.1. There is established a Senior Information Sharing and Safeguarding Steering Committee (Steering Committee) to exercise overall responsibility and ensure senior-level accountability for the coordinated interagency development and implementation of policies and standards regarding the sharing and safeguarding of classified information on computer networks.

SEC. 3.2. The Steering Committee shall be co-chaired by senior representatives of the Office of Management and Budget and the National Security Staff. Members of the committee shall be officers of the United States as designated by the heads of the Departments of State, Defense, Justice, Energy, and Homeland Security, the Office of the Director of National Intelligence, the Central Intelligence Agency, and the Information Security Oversight Office within the National Archives and Records Administration (ISOO), as well as such additional agencies as the co-chairs of the Steering Committee may designate.

SEC. 3.3. The responsibilities of the Steering Committee shall include:

(a) establishing Government-wide classified information sharing and safeguarding goals and annually reviewing executive branch successes and shortcomings in achieving those goals;

(b) preparing within 90 days of the date of this order and at least annually thereafter, a report for the President assessing the executive branch's successes and shortcomings in sharing and safeguarding classified information on computer networks and discussing potential future vulnerabilities;

(c) developing program and budget recommendations to achieve Government-wide classified information sharing and safeguarding goals;

(d) coordinating the interagency development and implementation of priorities, policies, and standards for sharing and safeguarding classified information on computer networks;

(e) recommending overarching policies, when appropriate, for promulgation by the Office of Management and Budget or the ISOO;

(f) coordinating efforts by agencies, the Executive Agent, and the Task Force to assess compliance with established policies and standards and recommending corrective actions needed to ensure compliance;

(g) providing overall mission guidance for the Program Manager-Information Sharing Environment (PM–ISE) with respect to the functions to be performed by the Classified Information Sharing and Safeguarding Office established in section 4 of this order; and

(h) referring policy and compliance issues that cannot be resolved by the Steering Committee to the Deputies Committee of the National Security Council in accordance with Presidential Policy Directive/PPD–1 of February 13, 2009 (Organization of the National Security Council System).

SEC. 4. *Classified Information Sharing and Safeguarding Office*.

SEC. 4.1. There shall be established a Classified Information Sharing and Safeguarding Office (CISSO) within and subordinate to the office of the PM–ISE to provide expert, full-time, sustained focus on responsible sharing and safeguarding of classified information on computer networks. Staff of the CISSO shall include detailees, as needed and appropriate, from agencies represented on the Steering Committee.

SEC. 4.2. The responsibilities of CISSO shall include:

(a) providing staff support for the Steering Committee;

(b) advising the Executive Agent for Safeguarding Classified Information on Computer Networks and the Insider Threat Task Force on the development of an effective program to monitor compliance with established policies and standards needed to achieve classified information sharing and safeguarding goals; and

(c) consulting with the Departments of State, Defense, and Homeland Security, the ISOO, the Office of the Director of National Intelligence, and others, as appropriate, to ensure consistency with policies and standards under Executive Order 13526 of December 29, 2009, Executive Order 12829 of January 6, 1993, as amended, Executive Order 13549 of August 18, 2010, and Executive Order 13556 of November 4, 2010.

SEC. 5. *Executive Agent for Safeguarding Classified Information on Computer Networks*.

SEC. 5.1. The Secretary of Defense and the Director, National Security Agency, shall jointly act as the Executive Agent for Safeguarding Classified Information on Computer Networks (the ''Executive Agent''), exercising the existing authorities of the Executive Agent and National Manager for national security systems, respectively, under National Security Directive/NSD–42 of July 5, 1990, as supplemented by and subject to this order.

SEC. 5.2. The Executive Agent's responsibilities, in addition to those specified by NSD–42, shall include the following:

(a) developing effective technical safeguarding policies and standards in coordination with the Committee on National Security Systems (CNSS), as re-designated by Executive Orders 13286 of February 28, 2003, and 13231 of October 16, 2001, that address the safeguarding of classified information within national security systems, as well as the safeguarding of national security systems themselves;

(b) referring to the Steering Committee for resolution any unresolved issues delaying the Executive Agent's timely development and issuance of technical policies and standards;

(c) reporting at least annually to the Steering Committee on the work of CNSS, including recommenda-

tions for any changes needed to improve the timeliness and effectiveness of that work; and

(d) conducting independent assessments of agency compliance with established safeguarding policies and standards, and reporting the results of such assessments to the Steering Committee.

SEC. 6. *Insider Threat Task Force.*

SEC. 6.1. There is established an interagency Insider Threat Task Force that shall develop a Government-wide program (insider threat program) for deterring, detecting, and mitigating insider threats, including the safeguarding of classified information from exploitation, compromise, or other unauthorized disclosure, taking into account risk levels, as well as the distinct needs, missions, and systems of individual agencies. This program shall include development of policies, objectives, and priorities for establishing and integrating security, counterintelligence, user audits and monitoring, and other safeguarding capabilities and practices within agencies.

SEC. 6.2. The Task Force shall be co-chaired by the Attorney General and the Director of National Intelligence, or their designees. Membership on the Task Force shall be composed of officers of the United States from, and designated by the heads of, the Departments of State, Defense, Justice, Energy, and Homeland Security, the Office of the Director of National Intelligence, the Central Intelligence Agency, and the ISOO, as well as such additional agencies as the co-chairs of the Task Force may designate. It shall be staffed by personnel from the Federal Bureau of Investigation and the Office of the National Counterintelligence Executive (ONCIX), and other agencies, as determined by the co-chairs for their respective agencies and to the extent permitted by law. Such personnel must be officers or full-time or permanent part-time employees of the United States. To the extent permitted by law, ONCIX shall provide an appropriate work site and administrative support for the Task Force.

SEC. 6.3. The Task Force's responsibilities shall include the following:

(a) developing, in coordination with the Executive Agent, a Government-wide policy for the deterrence, detection, and mitigation of insider threats, which shall be submitted to the Steering Committee for appropriate review;

(b) in coordination with appropriate agencies, developing minimum standards and guidance for implementation of the insider threat program's Government-wide policy and, within 1 year of the date of this order, issuing those minimum standards and guidance, which shall be binding on the executive branch;

(c) if sufficient appropriations or authorizations are obtained, continuing in coordination with appropriate agencies after 1 year from the date of this order to add to or modify those minimum standards and guidance, as appropriate;

(d) if sufficient appropriations or authorizations are not obtained, recommending for promulgation by the Office of Management and Budget or the ISOO any additional or modified minimum standards and guidance developed more than 1 year after the date of this order;

(e) referring to the Steering Committee for resolution any unresolved issues delaying the timely development and issuance of minimum standards;

(f) conducting, in accordance with procedures to be developed by the Task Force, independent assessments of the adequacy of agency programs to implement established policies and minimum standards, and reporting the results of such assessments to the Steering Committee;

(g) providing assistance to agencies, as requested, including through the dissemination of best practices; and

(h) providing analysis of new and continuing insider threat challenges facing the United States Government.

SEC. 7. *General Provisions.* (a) For the purposes of this order, the word ''agencies'' shall have the meaning set forth in section 6.1(b) of Executive Order 13526 of December 29, 2009.

(b) Nothing in this order shall be construed to change the requirements of Executive Orders 12333 of December 4, 1981, 12829 of January 6, 1993, 12968 of August 2, 1995, 13388 of October 25, 2005, 13467 of June 30, 2008, 13526 of December 29, 2009, 13549 of August 18, 2010, and their successor orders and directives.

(c) Nothing in this order shall be construed to supersede or change the authorities of the Secretary of Energy or the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended; the Secretary of Defense under Executive Order 12829, as amended; the Secretary of Homeland Security under Executive Order 13549; the Secretary of State under title 22, United States Code, and the Omnibus Diplomatic Security and Antiterrorism Act of 1986; the Director of ISOO under Executive Orders 13526 and 12829, as amended; the PM–ISE under Executive Order 13388 or the Intelligence Reform and Terrorism Prevention Act of 2004, as amended; the Director, Central Intelligence Agency under NSD–42 and Executive Order 13286, as amended; the National Counterintelligence Executive, under the Counterintelligence Enhancement Act of 2002; or the Director of National Intelligence under the National Security Act of 1947, as amended, the Intelligence Reform and Terrorism Prevention Act of 2004, as amended, NSD–42, and Executive Orders 12333, as amended, 12968, as amended, 13286, as amended, 13467, and 13526.

(d) Nothing in this order shall authorize the Steering Committee, CISSO, CNSS, or the Task Force to examine the facilities or systems of other agencies, without advance consultation with the head of such agency, nor to collect information for any purpose not provided herein.

(e) The entities created and the activities directed by this order shall not seek to deter, detect, or mitigate disclosures of information by Government employees or contractors that are lawful under and protected by the Intelligence Community Whistleblower Protection Act of 1998, Whistleblower Protection Act of 1989, Inspector General Act of 1978, or similar statutes, regulations, or policies.

(f) With respect to the Intelligence Community, the Director of National Intelligence, after consultation with the heads of affected agencies, may issue such policy directives and guidance as the Director of National Intelligence deems necessary to implement this order.

(g) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(h) This order shall be implemented consistent with applicable law and appropriate protections for privacy and civil liberties, and subject to the availability of appropriations.

(i) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of this title.]

IMPLEMENTATION OF THE EXECUTIVE ORDER, ''CLASSIFIED NATIONAL SECURITY INFORMATION''

Memorandum of President of the United States, Dec. 29, 2009, 75 F.R. 733, provided:

Memorandum for the Heads of Executive Departments and Agencies

Today I have signed an executive order [Ex. Ord. No. 13526, set out above] entitled, ''Classified National Security Information'' (the ''order''), which substantially advances my goals for reforming the security classification and declassification processes. I expect that

the order will produce measurable progress towards greater openness and transparency in the Government's classification and declassification programs while protecting the Government's legitimate interests, and I will closely monitor the results. I also look forward to reviewing recommendations from the study that the National Security Advisor will undertake in cooperation with the Public Interest Declassification Board to design a more fundamental transformation of the security classification system. To further assist in fulfilling the goal of measurable progress toward greater openness and transparency, I hereby direct the following actions.

1. *Initial Implementation Efforts*.

Successful implementation of the order requires personal commitment from the heads of departments and agencies, as well as their senior officials. It also requires effective security education and training programs, self-inspection programs, and measures designed to hold personnel accountable.

In accordance with section 5.4 of the order, the head of each department and agency that creates or handles classified information shall provide the Director of the Information Security Oversight Office (ISOO) a copy of the department or agency regulations implementing the requirements of the order. Such regulations shall be issued in final form within 180 days of ISOO's publication of its implementing directive for the order. The Director of ISOO shall consider agency actions to implement the requirements of section 5.4 of the order as a key element in planning oversight of agencies. Each senior agency official designated under section 5.4(d) of the order shall provide ISOO with updates concerning agency plans and other actions to implement the requirements of the order. The Director of ISOO shall publish a periodic status report on agency implementation.

2. *Declassification of Records of Permanent Historical Value*.

Under the direction of the National Declassification Center (NDC), and utilizing recommendations of an ongoing Business Process Review in support of the NDC, referrals and quality assurance problems within a backlog of more than 400 million pages of accessioned Federal records previously subject to automatic declassification shall be addressed in a manner that will permit public access to all declassified records from this backlog no later than December 31, 2013. In order to promote the efficient and effective utilization of finite resources available for declassification, further referrals of these records are not required except for those containing information that would clearly and demonstrably reveal: (a) the identity of a confidential human source or a human intelligence source; or (b) key design concepts of weapons of mass destruction.

The Secretaries of State, Defense, and Energy, and the Director of National Intelligence shall provide the Archivist of the United States with sufficient guidance to complete this task. The Archivist shall make public a report on the status of the backlog every 6 months.

3. *Delegation of Original Classification Authority*.

Delegations of original classification authority shall be limited to the minimum necessary to implement the order and only those individuals or positions with a demonstrable and continuing need to exercise such authority shall be delegated original classification authority.

Accordingly, heads of departments and agencies with original classification authority shall commence a review to ensure that all delegations of original classification authority are so limited and otherwise in accordance with section 1.3(c) of the order. Each department and agency shall submit a report on the results of this review to the Director of ISOO within 120 days of the date of this memorandum.

4. *Promotion of New Technologies to Support Declassification*.

Striking the critical balance between openness and secrecy is a difficult but necessary part of our democratic form of government. Striking this balance becomes more difficult as the volume and complexity of the information increases. Improving the capability of departments and agencies to identify still-sensitive information and to make declassified information available to the public are integral parts of the classification system.

Therefore, I am directing that the Secretary of Defense and the Director of National Intelligence each support research to assist the NDC in addressing the cross-agency challenges associated with declassification.

5. *Publication*. The Archivist of the United States is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

ORIGINAL CLASSIFICATION AUTHORITY

Order of President of the United States, dated Dec. 29, 2009, 75 F.R. 735, provided:

Pursuant to the provisions of section 1.3 of the Executive Order issued today [Ex. Ord. No. 13526, set out above], entitled ''Classified National Security Information'' (Executive Order), I hereby designate the following officials to classify information originally as ''Top Secret'' or ''Secret'':

TOP SECRET

Executive Office of the President:

The Assistant to the President and Chief of Staff

The Assistant to the President for National Security Affairs (National Security Advisor)

The Assistant to the President for Homeland Security and Counterterrorism

The Director of National Drug Control Policy

The Director, Office of Science and Technology Policy

The Chair or Co-Chairs, President's Intelligence Advisory Board

Departments and Agencies:

The Secretary of State

The Secretary of the Treasury

The Secretary of Defense

The Attorney General

The Secretary of Energy

The Secretary of Homeland Security

The Director of National Intelligence

The Secretary of the Army

The Secretary of the Navy

The Secretary of the Air Force

The Chairman, Nuclear Regulatory Commission

The Director of the Central Intelligence Agency

The Administrator of the National Aeronautics and Space Administration

The Director, Information Security Oversight Office

SECRET

Executive Office of the President:

The United States Trade Representative

Departments and Agencies:

The Secretary of Agriculture

The Secretary of Commerce

The Secretary of Health and Human Services

The Secretary of Transportation

The Administrator of the United States Agency for International Development

The Administrator of the Environmental Protection Agency

Any delegation of this authority shall be in accordance with section 1.3(c) of the Executive Order, except that the Director of the Information Security Oversight Office, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency may not delegate the authority granted in this order. If an agency head without original classification authority under this order, or otherwise delegated in accordance with section 1.3(c) of the Executive Order, has an exceptional need to classify information originated by their agency, the matter shall be referred to the agency head with appropriate subject matter interest

and classification authority in accordance with section 1.3(e) of the Executive Order. If the agency with appropriate subject matter interest and classification authority cannot readily be determined, the matter shall be referred to the Director of the Information Security Oversight Office.

Presidential designations ordered prior to the issuance of the Executive Order are revoked as of the date of this order. However, delegations of authority to classify information originally that were made in accordance with the provisions of section 1.4 of Executive Order 12958 of April 17, 1995 [formerly set out above], as amended, by officials designated under this order shall continue in effect, provided that the authority of such officials is delegable under this order.

This order shall be published in the Federal Register.

BARACK OBAMA.

PRIOR PRESIDENTIAL DESIGNATIONS TO CLASSIFY NATIONAL SECURITY INFORMATION WERE CONTAINED IN THE FOLLOWING:

Ex. Ord. No. 13010, § 7(b), July 15, 1996, 61 F.R. 37347, as amended, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

Order of President of the United States, dated Oct. 13, 1995, 60 F.R. 53845, formerly set out as a note under this section.

Order of President of the United States, dated Feb. 27, 1996, 61 F.R. 7977, formerly set out as a note under this section.

Order of President of the United States, dated Feb. 26, 1997, 62 F.R. 9349, formerly set out as a note under this section.

Order of President of the United States, dated Dec. 10, 2001, 66 F.R. 64347, formerly set out as a note under this section.

Order of President of the United States, dated May 6, 2002, 67 F.R. 31109, formerly set out as a note under this section.

Order of President of the United States, dated Sept. 26, 2002, 67 F.R. 61465, formerly set out as a note under this section.

Order of President of the United States, dated Sept. 17, 2003, 68 F.R. 55257, formerly set out as a note under this section.

Order of President of the United States, dated Apr. 21, 2005, 70 F.R. 21609, formerly set out as a note under this section.

§ 3162. Requests by authorized investigative agencies

(a) Generally

(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where—

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request—

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that—

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

(C) shall identify specifically or by category the records or information to be reviewed; and

(D) shall inform the recipient of the request of the prohibition described in subsection (b) of this section.

(b) Prohibition of certain disclosure

(1) If an authorized investigative agency described in subsection (a) certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that such entity has received or satisfied a request made by an authorized investigative agency under this section.

(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

(3) Any recipient disclosing to those persons necessary to comply with the request or to an

attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

(4) At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).

(c) Records or information; inspection or copying

(1) Notwithstanding any other provision of law (other than section 6103 of title 26), an entity receiving a request for records or information under subsection (a) of this section shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(d) Reimbursement of costs

Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

(e) Dissemination of records or information received

An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

(f) Construction of section

Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(July 26, 1947, ch. 343, title VIII, § 802, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3436; amended Pub. L. 109–177, title I, § 116(f), Mar. 9, 2006, 120 Stat. 216; Pub. L. 109–178, § 4(e), Mar. 9, 2006, 120 Stat. 281.)

REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsec. (f), probably means the Right to Financial Privacy Act of 1978, which is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, as amended, and is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (f), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1601 of Title 15 and Tables.

CODIFICATION

Section was formerly classified to section 436 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–177 amended subsec. (b) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.''

Subsec. (b)(4). Pub. L. 109–178 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such official that the person intends to consult an attorney to obtain legal advice or legal assistance.''

§ 3163. Exceptions

Except as otherwise specifically provided, the provisions of this subchapter shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

(July 26, 1947, ch. 343, title VIII, § 803, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3437.)

CODIFICATION

Section was formerly classified to section 437 of this title prior to editorial reclassification and renumbering as this section.

§ 3164. Definitions

For purposes of this subchapter—

(1) the term ''authorized investigative agency'' means an agency authorized by law or reg-

ulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term ''classified information'' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], to require protection against unauthorized disclosure and that is so designated;

(3) the term ''consumer reporting agency'' has the meaning given such term in section 1681a of title 15;

(4) the term ''employee'' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms ''financial agency'' and ''financial institution'' have the meanings given to such terms in section 5312(a) of title 31 and the term ''holding company'' has the meaning given to such term in section 3401(6) of title 12;

(6) the terms ''foreign power'' and ''agent of a foreign power'' have the same meanings as set forth in sections[1] 1801(a) and (b), respectively, of this title;

(7) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States; and

(8) the term ''computer'' means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.

(July 26, 1947, ch. 343, title VIII, § 804, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3438; amended Pub. L. 106–120, title III, § 305(b), Dec. 3, 1999, 113 Stat. 1611.)

REFERENCES IN TEXT

Executive Order No. 12356, referred to in par. (2), which was formerly set out as a note under section 435 (now section 3161) of this title, was revoked by Ex. Ord. No. 12958, § 6.1(d), Apr. 17, 1995, 60 F.R. 19843.

The Atomic Energy Act of 1954, referred to in par. (2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

[1] So in original. Probably should be ''section''.

CODIFICATION

Section was formerly classified to section 438 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1999—Par. (8). Pub. L. 106–120 added par. (8).

SUBCHAPTER VII—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

§ 3171. Stay of sanctions

Notwithstanding any provision of law identified in section 3174 of this title, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines and reports to Congress in accordance with section 3173 of this title that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 3172 of this title.

(July 26, 1947, ch. 343, title IX, § 901, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 964.)

CODIFICATION

Section was formerly classified to section 441 of this title prior to editorial reclassification and renumbering as this section.

§ 3172. Extension of stay

Whenever the President determines and reports to Congress in accordance with section 3173 of this title that a stay of sanctions or related actions pursuant to section 3171 of this title has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 3171 of this title for successive periods of not more than 120 days each.

(July 26, 1947, ch. 343, title IX, § 902, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 964.)

CODIFICATION

Section was formerly classified to section 441a of this title prior to editorial reclassification and renumbering as this section.

§ 3173. Reports

Reports to Congress pursuant to sections 3171 and 3172 of this title shall be submitted promptly upon determinations under this subchapter. Such reports shall be submitted to the Committee on International Relations of the House of

Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the congressional intelligence committees. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

(July 26, 1947, ch. 343, title IX, § 903, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 964; amended Pub. L. 107–306, title III, § 353(b)(2)(C), Nov. 27, 2002, 116 Stat. 2402.)

CODIFICATION

Section was formerly classified to section 441b of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2002—Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate''.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3174. Laws subject to stay

The President may use the authority of sections 3171 and 3172 of this title to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182) [22 U.S.C. 5601 et seq.]; the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102–484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103–87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103–306); and comparable provisions.

(July 26, 1947, ch. 343, title IX, § 904, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 965.)

REFERENCES IN TEXT

The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, referred to in text, is title III of Pub. L. 102–182, Dec. 4, 1991, 105 Stat. 1245, as amended, which is classified principally to chapter 65 (§ 5601 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 22 and Tables.

The Nuclear Proliferation Prevention Act of 1994, referred to in text, is title VIII of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 507, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 22, Foreign Relations and Intercourse, and Tables.

Title XVII of the National Defense Authorization Act for Fiscal Year 1991, referred to in text, is title XVII of div. A of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1750, as amended, which enacted section 2410b of the Appendix to this title and sections 2797 to 2797c of Title 22, Foreign Relations and Intercourse, amended section 2405 of the Appendix to this title, and enacted provisions set out as notes under section 2402 of the Appendix to this title and section 2797 of Title 22. For complete classification of title XVII to the Code, see Tables.

The Iran-Iraq Arms Nonproliferation Act of 1992, referred to in text, is title XVI of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2571, as amended, which is set out as a note under section 1701 of this title.

Section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994, referred to in text, probably means section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Pub. L. 103–87, title V, Sept. 30, 1993, 107 Stat. 972, which is not classified to the Code.

Section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995, referred to in text, probably means section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995, Pub. L. 103–306, title V, Aug. 23, 1994, 108 Stat. 1649, which is not classified to the Code.

CODIFICATION

Section was formerly classified to section 441c of this title prior to editorial reclassification and renumbering as this section.

§ 3175. Repealed. Pub. L. 108–177, title III, § 313(a), Dec. 13, 2003, 117 Stat. 2610

Section, act July 26, 1947, ch. 343, title IX, § 905, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 965; amended Pub. L. 104–293, title III, § 304, Oct. 11, 1996, 110 Stat. 3464; Pub. L. 105–107, title III, § 304, Nov. 20, 1997, 111 Stat. 2252; Pub. L. 105–272, title III, § 303, Oct. 20, 1998, 112 Stat. 2400, provided that this subchapter would cease to be effective on Jan. 6, 2000.

CODIFICATION

Section was formerly classified to section 441d of this title and repealed prior to editorial reclassification and renumbering as this section.

SUBCHAPTER VIII—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

PART A—SCIENCE AND TECHNOLOGY

§ 3191. Scholarships and work-study for pursuit of graduate degrees in science and technology

(a) Program authorized

The Director of National Intelligence may carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

(b) Administration

If the Director of National Intelligence carries out the program under subsection (a) of this section, the Director of National Intelligence shall administer the program through the Office of the Director of National Intelligence.

(c) Identification of fields of study

If the Director of National Intelligence carries out the program under subsection (a) of this section, the Director shall identify fields of study under subsection (a) of this section in consultation with the other heads of the elements of the intelligence community.

(d) Eligibility for participation

An individual eligible to participate in the program is any individual who—

(1) either—

(A) is an employee of the intelligence community; or

(B) meets criteria for eligibility for employment in the intelligence community that are established by the Director of National Intelligence;

(2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a) of this section; and

(3) is eligible for a security clearance at the level of Secret or above.

(e) Regulations

If the Director of National Intelligence carries out the program under subsection (a) of this section, the Director shall prescribe regulations for purposes of the administration of this section.

(July 26, 1947, ch. 343, title X, § 1001, as added Pub. L. 107–306, title III, § 331(a)(3), Nov. 27, 2002, 116 Stat. 2394; amended Pub. L. 108–458, title I, §§ 1071(a)(1)(MM), (3)(C)–(F), 1072(a)(8), Dec. 17, 2004, 118 Stat. 3689, 3690, 3692.)

CODIFICATION

Section was formerly classified to section 441g of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 1001 of act July 26, 1947, ch. 343, was renumbered section 1101 and is classified to section 3231 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(MM), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b). Pub. L. 108–458, § 1072(a)(8), substituted ''Office of the Director of National Intelligence'' for ''Assistant Director of Central Intelligence for Administration''.

Pub. L. 108–458, § 1071(a)(3)(C), which directed amendment of subsec. (b) by substituting ''Director of National Intelligence'' for ''Director'' each place it appeared, was executed by making the substitution the first two places it appeared to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 108–458, § 1071(a)(3)(D), substituted ''If the Director of National Intelligence'' for ''If the Director''.

Subsec. (d)(1)(B). Pub. L. 108–458, § 1071(a)(3)(E), substituted ''Director of National Intelligence'' for ''Director''.

Subsec. (e). Pub. L. 108–458, § 1071(a)(3)(F), substituted ''If the Director of National Intelligence'' for ''If the Director''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

PILOT PROGRAM ON RECRUITMENT AND TRAINING OF INTELLIGENCE ANALYSTS

Pub. L. 108–177, title III, § 318, Dec. 13, 2003, 117 Stat. 2613, as amended by Pub. L. 108–458, title I, §§ 1071(g)(3)(A)(iii), 1072(d)(2)(B), Dec. 17, 2004, 118 Stat. 3692, 3693, which required the Director of National Intelligence to carry out a pilot program during fiscal years 2004 through 2006 to provide financial assistance for academic training in areas of deficiency in the analytic capabilities of the intelligence community, and to submit reports to Congress not later than 120 days after Dec. 13, 2003, and not later than one year after the commencement of the program, was repealed by Pub. L. 111–259, title III, § 311(b)(2)(A), Oct. 7, 2010, 124 Stat. 2663.

§ 3192. Framework for cross-disciplinary education and training

The Director of National Intelligence shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.

(July 26, 1947, ch. 343, title X, § 1002, as added Pub. L. 108–458, title I, § 1042, Dec. 17, 2004, 118 Stat. 3679.)

CODIFICATION

Section was formerly classified to section 441g–1 of this title prior to editorial reclassification and renumbering as this section.

EFFECTIVE DATE

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3193. Repealed. Pub. L. 111–259, title III, § 313(b)(1)(B), Oct. 7, 2010, 124 Stat. 2666

Section, act July 26, 1947, ch. 343, title X, § 1003, as added Pub. L. 108–458, title I, § 1043, Dec. 17, 2004, 118 Stat. 3679; amended Pub. L. 111–259, title VIII, § 804(8), Oct. 7, 2010, 124 Stat. 2747, related to Intelligence Community Scholarship Program.

CODIFICATION

Section was formerly classified to section 441g–2 of this title and repealed prior to editorial reclassification and renumbering as this section.

SAVINGS PROVISION

Pub. L. 111–259, title III, § 313(b)(2), Oct. 7, 2010, 124 Stat. 2666, provided that: ''Notwithstanding the repeals made by paragraph (1) [repealing this section, amending provisions set out as a note under section 3023 of this title, and repealing provisions set out as a note under section 3021 of this title], nothing in this subsection [repealing this section, amending provisions set out as a note under section 3023 of this title, and re-

pealing provisions set out as a note under section 3021 of this title] shall be construed to amend, modify, or abrogate any agreement, contract, or employment relationship that was in effect in relation to the provisions repealed under paragraph (1) on the day prior to the date of the enactment of this Act [Oct. 7, 2010].''

PART B—FOREIGN LANGUAGES PROGRAM

§ 3201. Program on advancement of foreign languages critical to the intelligence community

(a) In general

The Secretary of Defense and the Director of National Intelligence may jointly carry out a program to advance skills in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States (hereinafter in this part referred to as the ''Foreign Languages Program'').

(b) Identification of requisite actions

In order to carry out the Foreign Languages Program, the Secretary of Defense and the Director of National Intelligence shall jointly identify actions required to improve the education of personnel in the intelligence community in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States and to meet the long-term intelligence needs of the United States.

(July 26, 1947, ch. 343, title X, § 1011, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3955.)

CODIFICATION

Section was formerly classified to section 441j of this title prior to editorial reclassification and renumbering as this section.

PILOT PROGRAM FOR INTENSIVE LANGUAGE INSTRUCTION IN AFRICAN LANGUAGES

Pub. L. 111–259, title III, § 314, Oct. 7, 2010, 124 Stat. 2666, provided that:

''(a) ESTABLISHMENT.—The Director of National Intelligence, in consultation with the National Security Education Board established under section 803(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(a)), may establish a pilot program for intensive language instruction in African languages.

''(b) PROGRAM.—A pilot program established under subsection (a) shall provide scholarships for programs that provide intensive language instruction—

''(1) in any of the five highest priority African languages for which scholarships are not offered under the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.), as determined by the Director of National Intelligence; and

''(2) both in the United States and in a country in which the language is the native language of a significant portion of the population, as determined by the Director of National Intelligence.

''(c) TERMINATION.—A pilot program established under subsection (a) shall terminate on the date that is five years after the date on which such pilot program is established.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000.

''(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until the termination of the pilot program in accordance with subsection (c).''

§ 3202. Education partnerships

(a) In general

In carrying out the Foreign Languages Program, the head of a covered element of the intelligence community may enter into one or more education partnership agreements with educational institutions in the United States in order to encourage and enhance the study in such educational institutions of foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States.

(b) Assistance provided under educational partnership agreements

Under an educational partnership agreement entered into with an educational institution pursuant to this section, the head of a covered element of the intelligence community may provide the following assistance to the educational institution:

(1) The loan of equipment and instructional materials of the element of the intelligence community to the educational institution for any purpose and duration that the head of the element considers appropriate.

(2) Notwithstanding any other provision of law relating to the transfer of surplus property, the transfer to the educational institution of any computer equipment, or other equipment, that is—

(A) commonly used by educational institutions;

(B) surplus to the needs of the element of the intelligence community; and

(C) determined by the head of the element to be appropriate for support of such agreement.

(3) The provision of dedicated personnel to the educational institution—

(A) to teach courses in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States; or

(B) to assist in the development for the educational institution of courses and materials on such languages.

(4) The involvement of faculty and students of the educational institution in research projects of the element of the intelligence community.

(5) Cooperation with the educational institution in developing a program under which students receive academic credit at the educational institution for work on research projects of the element of the intelligence community.

(6) The provision of academic and career advice and assistance to students of the educational institution.

(7) The provision of cash awards and other items that the head of the element of the intelligence community considers appropriate.

(July 26, 1947, ch. 343, title X, § 1012, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3956.)

CODIFICATION

Section was formerly classified to section 441j–1 of this title prior to editorial reclassification and renumbering as this section.

§ 3203. Voluntary services

(a) Authority to accept services

Notwithstanding section 1342 of title 31 and subject to subsection (b) of this section, the Foreign Languages Program under section 3201 of this title shall include authority for the head of a covered element of the intelligence community to accept from any dedicated personnel voluntary services in support of the activities authorized by this part.

(b) Requirements and limitations

(1) In accepting voluntary services from an individual under subsection (a) of this section, the head of a covered element of the intelligence community shall—

(A) supervise the individual to the same extent as the head of the element would supervise a compensated employee of that element providing similar services; and

(B) ensure that the individual is licensed, privileged, has appropriate educational or experiential credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(2) In accepting voluntary services from an individual under subsection (a) of this section, the head of a covered element of the intelligence community may not—

(A) place the individual in a policymaking position, or other position performing inherently governmental functions; or

(B) compensate the individual for the provision of such services.

(c) Authority to recruit and train individuals providing services

The head of a covered element of the intelligence community may recruit and train individuals to provide voluntary services under subsection (a) of this section.

(d) Status of individuals providing services

(1) Subject to paragraph (2), while providing voluntary services under subsection (a) of this section or receiving training under subsection (c) of this section, an individual shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Section 552a of title 5 (relating to maintenance of records on individuals).

(B) Chapter 11 of title 18 (relating to conflicts of interest).

(2)(A) With respect to voluntary services under paragraph (1) provided by an individual that are within the scope of the services accepted under that paragraph, the individual shall be deemed to be a volunteer of a governmental entity or nonprofit institution for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

(B) In the case of any claim against such an individual with respect to the provision of such services, section 4(d) of such Act (42 U.S.C. 14503(d)) shall not apply.

(3) Acceptance of voluntary services under this section shall have no bearing on the issuance or renewal of a security clearance.

(e) Reimbursement of incidental expenses

(1) The head of a covered element of the intelligence community may reimburse an individual for incidental expenses incurred by the individual in providing voluntary services under subsection (a) of this section. The head of a covered element of the intelligence community shall determine which expenses are eligible for reimbursement under this subsection.

(2) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

(f) Authority to install equipment

(1) The head of a covered element of the intelligence community may install telephone lines and any necessary telecommunication equipment in the private residences of individuals who provide voluntary services under subsection (a) of this section.

(2) The head of a covered element of the intelligence community may pay the charges incurred for the use of equipment installed under paragraph (1) for authorized purposes.

(3) Notwithstanding section 1348 of title 31, the head of a covered element of the intelligence community may use appropriated funds or nonappropriated funds of the element in carrying out this subsection.

(July 26, 1947, ch. 343, title X, § 1013, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3957.)

REFERENCES IN TEXT

The Volunteer Protection Act of 1997, referred to in subsec. (d)(2)(A), is Pub. L. 105–19, June 18, 1997, 111 Stat. 218, which is classified generally to chapter 139 (§ 14501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14501 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 441j–2 of this title prior to editorial reclassification and renumbering as this section.

§ 3204. Regulations

(a) In general

The Secretary of Defense and the Director of National Intelligence shall jointly prescribe regulations to carry out the Foreign Languages Program.

(b) Elements of the intelligence community

The head of each covered element of the intelligence community shall prescribe regulations to carry out sections 3202 and 3203 of this title with respect to that element including the following:

(1) Procedures to be utilized for the acceptance of voluntary services under section 3203 of this title.

(2) Procedures and requirements relating to the installation of equipment under section 3203(f) of this title.

(July 26, 1947, ch. 343, title X, § 1014, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3958.)

CODIFICATION

Section was formerly classified to section 441j–3 of this title prior to editorial reclassification and renumbering as this section.

§ 3205. Definitions

In this part:

(1) The term ''covered element of the intelligence community'' means an agency, office, bureau, or element referred to in subparagraphs (B) through (L) of section 3003(4) of this title.

(2) The term ''educational institution'' means—

(A) a local educational agency (as that term is defined in section 7801(26) of title 20);

(B) an institution of higher education (as defined in section 1002 of title 20, other than institutions referred to in subsection (a)(1)(C) of such section); or

(C) any other nonprofit institution that provides instruction of foreign languages in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

(3) The term ''dedicated personnel'' means employees of the intelligence community and private citizens (including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged, honorably separated, or generally discharged under honorable circumstances and rehired on a voluntary basis specifically to perform the activities authorized under this part).

(July 26, 1947, ch. 343, title X, § 1015, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3958.)

CODIFICATION

Section was formerly classified to section 441j–4 of this title prior to editorial reclassification and renumbering as this section.

PART C—ADDITIONAL EDUCATION PROVISIONS

§ 3221. Assignment of intelligence community personnel as language students

(a) In general

The Director of National Intelligence, acting through the heads of the elements of the intelligence community, may assign employees of such elements in analyst positions requiring foreign language expertise as students at accredited professional, technical, or other institutions of higher education for training at the graduate or undergraduate level in foreign languages required for the conduct of duties and responsibilities of such positions.

(b) Authority for reimbursement of costs of tuition and training

(1) The Director of National Intelligence may reimburse an employee assigned under subsection (a) of this section for the total cost of the training described in that subsection, including costs of educational and supplementary reading materials.

(2) The authority under paragraph (1) shall apply to employees who are assigned on a full-time or part-time basis.

(3) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

(c) Relationship to compensation as an analyst

Reimbursement under this section to an employee who is an analyst is in addition to any benefits, allowances, travel expenses, or other compensation the employee is entitled to by reason of serving in such an analyst position.

(July 26, 1947, ch. 343, title X, § 1021, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3959.)

CODIFICATION

Section was formerly classified to section 441m of this title prior to editorial reclassification and renumbering as this section.

§ 3222. Program on recruitment and training

(a) Program

(1) The Director of National Intelligence shall carry out a program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in areas of specialization that the Director, in consultation with the other heads of the elements of the intelligence community, identifies as areas in which the current capabilities of the intelligence community are deficient or in which future capabilities of the intelligence community are likely to be deficient.

(2) A student or former student selected for participation in the program shall commit to employment with an element of the intelligence community, following completion of appropriate academic training, under such terms and conditions as the Director considers appropriate.

(3) The program shall be known as the Pat Roberts Intelligence Scholars Program.

(b) Elements

In carrying out the program under subsection (a), the Director shall—

(1) establish such requirements relating to the academic training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence professionals; and

(2) periodically review the areas of specialization of the elements of the intelligence community to determine the areas in which such elements are, or are likely to be, deficient in capabilities.

(c) Use of funds

Funds made available for the program under subsection (a) shall be used—

(1) to provide a monthly stipend for each month that a student is pursuing a course of study;

(2) to pay the full tuition of a student or former student for the completion of such course of study;

(3) to pay for books and materials that the student or former student requires or required to complete such course of study;

(4) to pay the expenses of the student or former student for travel requested by an element of the intelligence community in relation to such program; or

(5) for such other purposes the Director considers reasonably appropriate to carry out such program.

(July 26, 1947, ch. 343, title X, § 1022, as added Pub. L. 111–259, title III, § 311(a), Oct. 7, 2010, 124 Stat. 2662.)

CODIFICATION

Section was formerly classified to section 441n of this title prior to editorial reclassification and renumbering as this section.

§ 3223. Educational scholarship program

The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program that the Secretary of Defense is authorized to establish under section 3614 of this title.

(July 26, 1947, ch. 343, title X, § 1023, as added Pub. L. 111–259, title III, § 312(e)(1), Oct. 7, 2010, 124 Stat. 2664.)

CODIFICATION

Section was formerly classified to section 441*o* of this title prior to editorial reclassification and renumbering as this section.

§ 3224. Intelligence officer training program

(a) Programs

(1) The Director of National Intelligence may carry out grant programs in accordance with subsections (b) and (c) to enhance the recruitment and retention of an ethnically and culturally diverse intelligence community workforce with capabilities critical to the national security interests of the United States.

(2) In carrying out paragraph (1), the Director shall identify the skills necessary to meet current or emergent needs of the intelligence community and the educational disciplines that will provide individuals with such skills.

(b) Institutional grant program

(1) The Director may provide grants to institutions of higher education to support the establishment or continued development of programs of study in educational disciplines identified under subsection (a)(2).

(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

(A) Curriculum or program development.

(B) Faculty development.

(C) Laboratory equipment or improvements.

(D) Faculty research.

(c) Grant program for historically black colleges and universities

(1) The Director may provide grants to historically black colleges and universities and Predominantly Black Institutions to provide programs of study in educational disciplines identified under subsection (a)(2) or described in paragraph (2).

(2) A grant provided under paragraph (1) may be used to provide programs of study in the following educational disciplines:

(A) Intermediate and advanced foreign languages deemed in the immediate interest of the intelligence community, including Farsi, Pashto, Middle Eastern, African, and South Asian dialects.

(B) Study abroad programs and cultural immersion programs.

(d) Application

An institution of higher education seeking a grant under this section shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

(e) Reports

An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

(1) a description of the benefits to students who participate in the course of study funded by such grant;

(2) a description of the results and accomplishments related to such course of study; and

(3) any other information that the Director may require.

(f) Regulations

The Director shall prescribe such regulations as may be necessary to carry out this section.

(g) Definitions

In this section:

(1) The term ''Director'' means the Director of National Intelligence.

(2) HISTORICALLY BLACK COLLEGE AND UNIVERSITY.—The term ''historically black college and university'' has the meaning given the term ''part B institution'' in section 1061 of title 20.

(3) The term ''institution of higher education'' has the meaning given the term in section 1001 of title 20.

(4) PREDOMINANTLY BLACK INSTITUTION.—The term ''Predominantly Black Institution'' has the meaning given the term in section 1059e of title 20.

(5) STUDY ABROAD PROGRAM.—The term ''study abroad program'' means a program of study that—

(A) takes places[1] outside the geographical boundaries of the United States;

(B) focuses on areas of the world that are critical to the national security interests of the United States and are generally underrepresented in study abroad programs at institutions of higher education, including Africa, Asia, Central and Eastern Europe, Eurasia, Latin America, and the Middle East; and

(C) is a credit or noncredit program.

(July 26, 1947, ch. 343, title X, § 1024, as added Pub. L. 111–259, title III, § 313(a), Oct. 7, 2010, 124 Stat. 2665; amended Pub. L. 112–18, title III, § 304, June 8, 2011, 125 Stat. 226; Pub. L. 113–293, title III, § 306, Dec. 19, 2014, 128 Stat. 3997.)

CODIFICATION

Section was formerly classified to section 441p of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (c)(1). Pub. L. 113–293, § 306(1), inserted ''and Predominantly Black Institutions'' after ''universities''.

[1] So in original. Probably should be ''takes place''.

Subsec. (g)(4), (5). Pub. L. 113–293, § 306(2), added par. (4) and redesignated former par. (4) as (5).

2011—Subsec. (a)(1). Pub. L. 112–18, § 304(1), substituted ''subsections (b) and (c)'' for ''subsection (b)''.

Subsecs. (c) to (f). Pub. L. 112–18, § 304(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 112–18, § 304(2), redesignated subsec. (f) as (g).

Subsec. (g)(2) to (4). Pub. L. 112–18, § 304(4), added pars. (2) and (4) and redesignated former par. (2) as (3).

SUBCHAPTER IX—ADDITIONAL MISCELLANEOUS PROVISIONS

§ 3231. Applicability to United States intelligence activities of Federal laws implementing international treaties and agreements

(a) In general

No Federal law enacted on or after December 27, 2000, that implements a treaty or other international agreement shall be construed as making unlawful an otherwise lawful and authorized intelligence activity of the United States Government or its employees, or any other person to the extent such other person is carrying out such activity on behalf of, and at the direction of, the United States, unless such Federal law specifically addresses such intelligence activity.

(b) Authorized intelligence activities

An intelligence activity shall be treated as authorized for purposes of subsection (a) of this section if the intelligence activity is authorized by an appropriate official of the United States Government, acting within the scope of the official duties of that official and in compliance with Federal law and any applicable Presidential directive.

(July 26, 1947, ch. 343, title XI, § 1101, formerly title X, § 1001, as added Pub. L. 106–567, title III, § 308(a), Dec. 27, 2000, 114 Stat. 2839; renumbered title XI, § 1101, Pub. L. 107–306, title III, § 331(a)(1), (2), Nov. 27, 2002, 116 Stat. 2394.)

CODIFICATION

Section was formerly classified to section 442 of this title prior to editorial reclassification and renumbering as this section.

§ 3232. Counterintelligence initiatives

(a) Inspection process

In order to protect intelligence sources and methods from unauthorized disclosure, the Director of National Intelligence shall establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States intended to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.

(b) Annual review of dissemination lists

The Director of National Intelligence shall establish and implement a process for all elements of the intelligence community to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized ''need to know'' (as determined by the Director) are continued on such distribution lists.

(c) Completion of financial disclosure statements required for access to certain classified information

The Director of National Intelligence shall establish and implement a process by which each head of an element of the intelligence community directs that all employees of that element, in order to be granted access to classified information referred to in subsection (a) of section 1.3 of Executive Order No. 12968 (August 2, 1995; 60 Fed. Reg. 40245; [former] 50 U.S.C. 435 note [now 50 U.S.C. 3161 note]), submit financial disclosure forms as required under subsection (b) of such section.

(d) Arrangements to handle sensitive information

The Director of National Intelligence shall establish, for all elements of the intelligence community, programs and procedures by which sensitive classified information relating to human intelligence is safeguarded against unauthorized disclosure by employees of those elements.

(July 26, 1947, ch. 343, title XI, § 1102, as added Pub. L. 108–177, title III, § 341(a)(1), Dec. 13, 2003, 117 Stat. 2615; amended Pub. L. 108–458, title I, § 1071(a)(1)(NN)–(QQ), Dec. 17, 2004, 118 Stat. 3689, 3690; Pub. L. 111–259, title III, § 347(e), title IV, § 409, Oct. 7, 2010, 124 Stat. 2699, 2724.)

CODIFICATION

Section was formerly classified to section 442a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–259, § 409(1), struck out par. (1) designation before ''In'' and par. (2) which read as follows: ''The Director shall carry out the process through the Office of the National Counterintelligence Executive.''

Subsec. (b). Pub. L. 111–259, § 347(e), struck out par. (1) designation before ''The Director'' and par. (2) which read as follows: ''Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.''

Subsec. (c). Pub. L. 111–259, § 409(2), struck out par. (1) designation before ''The Director'' and par. (2) which read as follows: ''The Director shall carry out paragraph (1) through the Office of the National Counterintelligence Executive.''

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(NN), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(OO), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c)(1). Pub. L. 108–458, § 1071(a)(1)(PP), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (d). Pub. L. 108–458, § 1071(a)(1)(QQ), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005,

70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

§ 3233. Misuse of the Office of the Director of National Intelligence name, initials, or seal

(a) Prohibited acts

No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director, knowingly use the words ''Office of the Director of National Intelligence'', the initials ''ODNI'', the seal of the Office of the Director of National Intelligence, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

(b) Injunction

Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(July 26, 1947, ch. 343, title XI, § 1103, as added Pub. L. 111–259, title IV, § 413(a), Oct. 7, 2010, 124 Stat. 2726.)

CODIFICATION

Section was formerly classified to section 442b of this title prior to editorial reclassification and renumbering as this section.

§ 3234. Prohibited personnel practices in the intelligence community

(a) Definitions

In this section:

(1) Agency

The term ''agency'' means an executive department or independent establishment, as defined under sections 101 and 104 of title 5, that contains an intelligence community element, except the Federal Bureau of Investigation.

(2) Covered intelligence community element

The term ''covered intelligence community element''—

(A) means—

(i) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

(ii) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5 to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

(B) does not include the Federal Bureau of Investigation.

(3) Personnel action

The term ''personnel action'' means, with respect to an employee in a position in a covered intelligence community element (other than a position excepted from the competitive service due to its confidential, policy-determining, policymaking, or policy-advocating character)—

(A) an appointment;

(B) a promotion;

(C) a disciplinary or corrective action;

(D) a detail, transfer, or reassignment;

(E) a demotion, suspension, or termination;

(F) a reinstatement or restoration;

(G) a performance evaluation;

(H) a decision concerning pay, benefits, or awards;

(I) a decision concerning education or training if such education or training may reasonably be expected to lead to an appointment, promotion, or performance evaluation; or

(J) any other significant change in duties, responsibilities, or working conditions.

(b) In general

Any employee of an agency who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of a covered intelligence community element as a reprisal for a lawful disclosure of information by the employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the employing agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the employing agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the employee reasonably believes evidences—

(1) a violation of any Federal law, rule, or regulation; or

(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) Enforcement

The President shall provide for the enforcement of this section.

(d) Existing rights preserved

Nothing in this section shall be construed to—

(1) preempt or preclude any employee, or applicant for employment, at the Federal Bureau of Investigation from exercising rights pro-

vided under any other law, rule, or regulation, including section 2303 of title 5; or

(2) repeal section 2303 of title 5.

(July 26, 1947, ch. 343, title XI, § 1104, as added Pub. L. 113–126, title VI, § 601(a), July 7, 2014, 128 Stat. 1414.)

POLICIES AND PROCEDURES; NONAPPLICABILITY TO CERTAIN TERMINATIONS

Pub. L. 113–126, title VI, § 604, July 7, 2014, 128 Stat. 1421, provided that:

''(a) COVERED INTELLIGENCE COMMUNITY ELEMENT DEFINED.—In this section, the term 'covered intelligence community element'—

''(1) means—

''(A) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

''(B) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

''(2) does not include the Federal Bureau of Investigation.

''(b) REGULATIONS.—In consultation with the Secretary of Defense, the Director of National Intelligence shall develop policies and procedures to ensure that a personnel action shall not be taken against an employee of a covered intelligence community element as a reprisal for any disclosure of information described in [section] 1104 of the National Security Act of 1947 [50 U.S.C. 3234], as added by section 601 of this Act.

''(c) REPORT ON THE STATUS OF IMPLEMENTATION OF REGULATIONS.—Not later than 2 years after the date of the enactment of this Act [July 7, 2014], the Director of National Intelligence shall submit a report on the status of the implementation of the regulations promulgated under subsection (b) to the congressional intelligence committees.

''(d) NONAPPLICABILITY TO CERTAIN TERMINATIONS.—Section 1104 of the National Security Act of 1947, as added by section 601 of this Act, and section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341), as amended by section 602 of this Act, shall not apply if—

''(1) the affected employee is concurrently terminated under—

''(A) section 1609 of title 10, United States Code;

''(B) the authority of the Director of National Intelligence under section 102A(m) of the National Security Act of 1947 (50 U.S.C. 3024(m)), if the Director determines that the termination is in the interest of the United States;

''(C) the authority of the Director of the Central Intelligence Agency under section 104A(e) of the National Security Act of 1947 (50 U.S.C. 3036(e)), if the Director determines that the termination is in the interest of the United States; or

''(D) section 7532 of title 5, United States Code, if the head of the agency determines that the termination is in the interest of the United States; and

''(2) not later than 30 days after such termination, the head of the agency that employed the affected employee notifies the congressional intelligence committees of the termination.''

[For definition of ''congressional intelligence committees'' as used in section 604 of Pub. L. 113–126, set out above, see section 2 of Pub. L. 113–126, set out as a note under section 3003 of this title.]

CHAPTER 45—MISCELLANEOUS INTELLIGENCE COMMUNITY AUTHORITIES

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Sec.
3301. Multiyear national intelligence program.
3302. Identification of constituent components of base intelligence budget.
3303. Construction of intelligence community facilities; Presidential authorization.
3304. Limitation on construction of facilities to be used primarily by intelligence community.
3305. Exhibits for inclusion with budget justification books.
3306. Availability to public of certain intelligence funding information.
3307. Communications with the Committees on Armed Services of the Senate and the House of Representatives.
3308. Information access by the Comptroller General of the United States.
3309. Notification of establishment of advisory committee.
3310. Annual report on United States security arrangements and commitments with other nations.
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3321. National Intelligence Reserve Corps.
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3323. Eligibility for incentive awards.
3324. Prohibition on using journalists as agents or assets.
3325. Reaffirmation of longstanding prohibition against drug trafficking by employees of the intelligence community.
3326. Limitation of expenditure of funds appropriated for Department of Defense intelligence programs.
3327. Limitation on transfer of funds between CIA and Department of Defense; congressional notification required.
3328. Study or plan of surrender; use of appropriations.
3329. Intelligence community contracting.
3330. Reports to the intelligence community on penetrations of networks and information systems of certain contractors.

SUBCHAPTER III—SECURITY CLEARANCES AND CLASSIFIED INFORMATION

3341. Security clearances.
3342. Security clearances for transition team members.
3343. Security clearances; limitations.
3344. Classification training program.
3345. Limitation on handling, retention, and storage of certain classified materials by the Department of State.
3346. Compilation and organization of previously declassified records.
3347. Secrecy agreements used in intelligence activities.
3348. Reports relating to certain special access programs and similar programs.
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SUBCHAPTER IV—COLLECTION, ANALYSIS, AND SHARING OF INTELLIGENCE

3361. National Virtual Translation Center.
3362. Foreign Terrorist Asset Tracking Center.
3363. Terrorist Identification Classification System.
3364. Assignment of responsibilities relating to analytic integrity.
3365. Foreign intelligence information.
3366. Authorities of heads of other departments and agencies.