

EXECUTIVE ORDER No. 12331

Ex. Ord. No. 12331, Oct. 20, 1981, 46 F.R. 51705, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex.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 No. 12624, Jan. 6, 1988, 53 F.R. 489, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex.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 con-

taining 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 com-

mittees 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) 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 government 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, the National Counterproliferation Center, and the National Counterintelligence and Security 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 di-

rect 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 de-

rogatory 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).

(D) The mechanisms prescribed under subparagraph (A) and any other policies of the Director—

- (i) may not require an employee of an office of inspector general for an element of the intelligence community, including the Office of the Inspector General of the Intelligence Community, to rotate to a position in an office or organization of such an element over which such office of inspector general exercises jurisdiction; and
- (ii) shall be implemented in a manner that exempts employees of an office of inspector general from a rotation that may impact the independence of such office.

(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), 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

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.

(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) A covered department may appoint an individual to a position converted or established pursuant to this subsection without regard to the civil-service laws, including parts II and III of title 5.

(4) 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.

¹ See References in Text note below.

(y) Fundraising

(1) The Director of National Intelligence may engage in fundraising in an official capacity for the benefit of nonprofit organizations that—

(A) provide support to surviving family members of a deceased employee of an element of the intelligence community; or

(B) otherwise provide support for the welfare, education, or recreation of employees of an element of the intelligence community, former employees of an element of the intelligence community, or family members of such employees.

(2) In this subsection, the term “fundraising” means the raising of funds through the active participation in the promotion, production, or presentation of an event designed to raise funds and does not include the direct solicitation of money by any other means.

(3) Not later than 7 days after the date the Director engages in fundraising authorized by this subsection or at the time the decision is made to participate in such fundraising, the Director shall notify the congressional intelligence committees of such fundraising.

(4) The Director, in consultation with the Director of the Office of Government Ethics, shall issue regulations to carry out the authority provided in this subsection. Such regulations shall ensure that such authority is exercised in a manner that is consistent with all relevant ethical constraints and principles, including the avoidance of any prohibited conflict of interest or appearance of impropriety.

(z) Analyses and impact statements regarding proposed investment into the United States

(1) Not later than 20 days after the completion of a review or an investigation of any proposed investment into the United States for which the Director has prepared analytic materials, the Director shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representative copies of such analytic materials, including any supplements or amendments to such analysis made by the Director.

(2) Not later than 60 days after the completion of consideration by the United States Government of any investment described in paragraph (1), the Director shall determine whether such investment will have an operational impact on the intelligence community, and, if so, shall submit a report on such impact to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives. Each such report shall—

(A) describe the operational impact of the investment on the intelligence community; and

(B) describe any actions that have been or will be taken to mitigate such impact.

(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; Pub. L. 114–113, div. M, title I, §105(a), title VII, §701(c)(1), Dec. 18, 2015, 129 Stat. 2912, 2929; Pub. L. 115–31, div. N, title III, §§303(a), 309(b), title IV, §§401(c), 402, May 5, 2017, 131 Stat. 810, 815, 818, 820.)

REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (c)(6), is Pub. L. 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

2017—Subsec. (f)(2). Pub. L. 115–31, §401(c), inserted “, the National Counterproliferation Center, and the National Counterintelligence and Security Center” after “National Counterterrorism Center”.

Subsec. (l)(3)(D). Pub. L. 115–31, §309(b), added subpar. (D).

Subsec. (y). Pub. L. 115–31, §303(a), added subsec. (y).
 Subsec. (z). Pub. L. 115–31, §402, added subsec. (z).

2015—Subsec. (u). Pub. L. 114–113, §701(c)(1), struck out par. (1) designation before “The Director of National Intelligence” and struck out par. (2) which read as follows: “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.”

Subsec. (v)(3), (4). Pub. L. 114–113, §105(a), added par. (3) and redesignated former par. (3) as (4).

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 2015 AMENDMENT

Pub. L. 114–113, div. M, title I, §105(b), Dec. 18, 2015, 129 Stat. 2912, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to an appointment under section 102A(v) of the National Security Act of 1947 (50 U.S.C. 3024(v))

made on or after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2012 (Public Law 112–87) [Jan. 3, 2012] and to any proceeding pending on or filed after the date of the enactment of this section [Dec. 18, 2015] that relates to such an appointment.”

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.

LIMITATION ON ACTIVITIES OF EMPLOYEES OF AN OFFICE OF INSPECTOR GENERAL

Pub. L. 115–31, div. N, title III, §309(a), May 5, 2017, 131 Stat. 814, provided that:

“(1) LIMITATIONS.—Not later than 180 days after the date of the enactment of this Act [May 5, 2017], the Director of National Intelligence shall develop and implement a uniform policy for each covered office of an inspector general to better ensure the independence of each such office. Such policy shall include—

“(A) provisions to prevent any conflict of interest related to a matter any employee of a covered office of an inspector general personally and substantially participated in during previous employment;

“(B) standards to ensure personnel of a covered office of an inspector general are free both in fact and in appearance from personal, external, and organizational impairments to independence;

“(C) provisions to permit the head of each covered office of an inspector general to waive the application of the policy with respect to an individual if such head—

“(i) prepares a written and signed justification for such waiver that sets out, in detail, the need for such waiver, provided that waivers shall not be issued for in fact impairments to independence; and

“(ii) submits to the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] each such justification; and

“(D) any other protections the Director determines appropriate.

“(2) COVERED OFFICE OF AN INSPECTOR GENERAL DEFINED.—The term ‘covered office of an inspector general’ means—

“(A) the Office of the Inspector General of the Intelligence Community; and

“(B) the office of an inspector general for—

“(i) the Office of the Director of National Intelligence;

“(ii) the Central Intelligence Agency;

“(iii) the National Security Agency;

“(iv) the Defense Intelligence Agency;

“(v) the National Geospatial-Intelligence Agency;

and

“(vi) the National Reconnaissance Office.

“(3) BRIEFING TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES.—Prior to the date that the policy required by paragraph (1) takes effect, the Director of National Intelligence shall provide the congressional intelligence committees a briefing on such policy.”

DESIGNATION OF LEAD INTELLIGENCE OFFICER FOR TUNNELS

Pub. L. 114–113, div. M, title III, §309, Dec. 18, 2015, 129 Stat. 2918, provided that:

“(a) IN GENERAL.—The Director of National Intelligence shall designate an official to manage the collection and analysis of intelligence regarding the tactical use of tunnels by state and nonstate actors.

“(b) ANNUAL REPORT.—Not later than the date that is 10 months after the date of the enactment of this Act [Dec. 18, 2015], and biennially thereafter until the date that is 4 years after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] and the congressional defense committees (as such term is defined in section 101(a)(16) of title 10, United States Code) a report describing—

“(1) trends in the use of tunnels by foreign state and nonstate actors; and

“(2) collaboration efforts between the United States and partner countries to address the use of tunnels by adversaries.”

REPORTING PROCESS REQUIRED FOR TRACKING CERTAIN REQUESTS FOR COUNTRY CLEARANCE

Pub. L. 114-113, div. M, title III, §310, Dec. 18, 2015, 129 Stat. 2918, provided that:

“(a) IN GENERAL.—By not later than September 30, 2016, the Director of National Intelligence shall establish a formal internal reporting process for tracking requests for country clearance submitted to overseas Director of National Intelligence representatives by departments and agencies of the United States. Such reporting process shall include a mechanism for tracking the department or agency that submits each such request and the date on which each such request is submitted.

“(b) CONGRESSIONAL BRIEFING.—By not later than December 31, 2016, the Director of National Intelligence shall brief the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] on the progress of the Director in establishing the process required under subsection (a).”

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 detection 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 sec-

tion 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.]

cy. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of this title.]

ESTABLISHMENT OF THE CYBER THREAT INTELLIGENCE
INTEGRATION CENTER

Memorandum of President of the United States, Feb. 25, 2015, 80 F.R. 11317, provided:

Memorandum for the Secretary of State[,] the Secretary of Defense[,] the Secretary of the Treasury[,] the Secretary of Commerce[,] the Attorney General[,] the Secretary of Homeland Security[,] the Director of National Intelligence[,] the Chairman of the Joint Chiefs of Staff[,] the Director of the Central Intelligence Agency[,] the Director of the Federal Bureau of Investigation[, and] the Director of the National Security Agency

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

SECTION 1. *Establishment of the Cyber Threat Intelligence Integration Center.* The Director of National Intelligence (DNI) shall establish a Cyber Threat Intelligence Integration Center (CTIIC). Executive departments and agencies (agencies) shall support the DNI's efforts to establish the CTIIC, including by providing, as appropriate, personnel and resources needed for the CTIIC to reach full operating capability by the end of fiscal year 2016.

SEC. 2. *Responsibilities of the Cyber Threat Intelligence Integration Center.* The CTIIC shall:

(a) provide integrated all-source analysis of intelligence related to foreign cyber threats or related to cyber incidents affecting U.S. national interests;

(b) support the National Cybersecurity and Communications Integration Center, the National Cyber Investigative Joint Task Force, U.S. Cyber Command, and other relevant United States Government entities by providing access to intelligence necessary to carry out their respective missions;

(c) oversee the development and implementation of intelligence sharing capabilities (including systems, programs, policies, and standards) to enhance shared situational awareness of intelligence related to foreign cyber threats or related to cyber incidents affecting U.S. national interests among the organizations referenced in subsection (b) of this section;

(d) ensure that indicators of malicious cyber activity and, as appropriate, related threat reporting contained in intelligence channels are downgraded to the lowest classification possible for distribution to both United States Government and U.S. private sector entities through the mechanism described in section 4 of Executive Order 13636 of February 12, 2013 (Improving Critical Infrastructure Cybersecurity); and

(e) facilitate and support interagency efforts to develop and implement coordinated plans to counter foreign cyber threats to U.S. national interests using all instruments of national power, including diplomatic, economic, military, intelligence, homeland security, and law enforcement activities.

SEC. 3. *Implementation.* (a) Agencies shall provide the CTIIC with all intelligence related to foreign cyber threats or related to cyber incidents affecting U.S. national interests, subject to applicable law and policy. The CTIIC shall access, assess, use, retain, and disseminate such information, in a manner that protects privacy and civil liberties and is consistent with applicable law, Executive Orders, Presidential directives, and guidelines, such as guidelines established under section 102A(b) of the National Security Act of 1947, as amended, Executive Order 12333 of December 4, 1981 (United States Intelligence Activities), as amended, and Presidential Policy Directive-28; and that is consistent with the need to protect sources and methods.

(b) Within 90 days of the date of this memorandum, the DNI, in consultation with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, and the Director of the

National Security Agency shall provide a status report to the Director of the Office of Management and Budget and the Assistant to the President for Homeland Security and Counterterrorism on the establishment of the CTIIC. This report shall further refine the CTIIC's mission, roles, and responsibilities, consistent with this memorandum, ensuring that those roles and responsibilities are appropriately aligned with other Presidential policies as well as existing policy coordination mechanisms.

SEC. 4. *Privacy and Civil Liberties Protections.* Agencies providing information to the CTIIC shall ensure that privacy and civil liberties protections are provided in the course of implementing this memorandum. Such protections shall be based upon the Fair Information Practice Principles or other privacy and civil liberties policies, principles, and frameworks as they apply to each agency's activities.

SEC. 5. *General Provisions.* (a) Nothing in this memorandum 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 memorandum shall be implemented consistently with applicable law and subject to the availability of appropriations.

(c) This memorandum 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.

(d) The DNI is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

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.