

Editorial Notes

CODIFICATION

The text of section 202(b) of this title, which was transferred to this section by Pub. L. 105-107, § 503(b), was based on Pub. L. 97-269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1145, § 191; renumbered § 201, Pub. L. 99-433, title III, § 301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered § 202, Pub. L. 102-190, div. A, title IX, § 922(a)(1), Dec. 5, 1991, 105 Stat. 1453.

PRIOR PROVISIONS

A prior section 425, added Pub. L. 103-178, title V, § 503(a)(1), Dec. 3, 1993, 107 Stat. 2038, related to disclosure of information about personnel at National Reconnaissance Office prior to repeal by Pub. L. 104-201, div. A, title XI, §§ 1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996. See section 424 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-84 repealed Pub. L. 110-417, § 932(a)(6). See 2008 Amendment note below.

2008—Subsec. (a). Pub. L. 110-181 and Pub. L. 110-417, § 932(a)(6), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence” in introductory provisions. Pub. L. 110-417, § 932(a)(6), was repealed by Pub. L. 111-84.

2003—Subsec. (a)(5). Pub. L. 108-136 added par. (5).

1997—Subsec. (b). Pub. L. 105-107, § 503(b), renumbered section 202(b) of this title as subsec. (b) of this section and inserted heading.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to National Imagery and Mapping Agency considered to be reference to National Geospatial-Intelligence Agency, see section 921(a) of Pub. L. 108-136, set out as a note under section 441 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

§ 426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities

(a) **ISR INTEGRATION COUNCIL.**—(1) The Under Secretary of Defense for Intelligence and Security shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council—

(A) to assist the Secretary of Defense in carrying out the responsibilities of the Secretary under section 105(a) of the National Security Act of 1947 (50 U.S.C. 3038(a));

(B) to assist the Under Secretary with respect to matters relating to—

(i) integration of intelligence and counterintelligence capabilities and activities under section 137(b) of this title of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands; and

(ii) coordination of related developmental activities of such departments, agencies, and combatant commands; and

(C) to otherwise provide a means to facilitate such integration and coordination.

(2) The Council shall be composed of—

(A) the Under Secretary, who shall chair the Council;

(B) the directors of the intelligence agencies of the Department of Defense;

(C) the senior intelligence officers of the armed forces and the regional and functional combatant commands;

(D) the Director for Intelligence of the Joint Chiefs of Staff; and

(E) the Director for Operations of the Joint Chiefs of Staff.

(3) The Under Secretary shall invite the participation of the Director of National Intelligence (or a representative of the Director) in the proceedings of the Council.

(4) The Under Secretary may designate additional participants to attend the proceedings of the Council, as the Under Secretary determines appropriate.

(b) **ANNUAL BRIEFINGS ON THE INTELLIGENCE AND COUNTERINTELLIGENCE REQUIREMENTS OF THE COMBATANT COMMANDS.**—(1) The Chairman of the Joint Chiefs of Staff shall provide to the congressional defense committees and the congressional intelligence committees a briefing on the following:

(A) The intelligence and counterintelligence requirements, by specific intelligence capability type, of each of the relevant combatant commands.

(B) For the year preceding the year in which the briefing is provided, the fulfillment rate for each of the relevant combatant commands of the validated intelligence and counterintelligence requirements, by specific intelligence capability type, of such combatant command.

(C) A risk analysis identifying the critical gaps and shortfalls in efforts to address operational and strategic requirements of the Department of Defense that would result from the failure to fulfill the validated intelligence and counterintelligence requirements of the relevant combatant commands.

(D) A mitigation plan to balance and offset the gaps and shortfalls identified under subparagraph (C), including with respect to spaceborne, airborne, ground, maritime, and cyber intelligence, surveillance, and reconnaissance capabilities.

(E) For the year preceding the year in which the briefing is provided—

(i) the number of intelligence and counterintelligence requests of each commander of a relevant combatant command determined by the Joint Chiefs of Staff to be a validated requirement, and the total of capacity of such requests provided to each such commander;

(ii) with respect to such validated requirements—

(I) the quantity of intelligence and counterintelligence capabilities or activities, by specific intelligence capability type, that the Joint Chiefs of Staff requested each military department to provide; and

(II) the total of capacity of such requests so provided by each such military department; and

(iii) a qualitative assessment of the alignment of intelligence and counterintelligence capabilities and activities with the program of analysis for each combat support agency and intelligence center of a military service that is part of—

- (I) the Defense Intelligence Enterprise; and
 (II) the intelligence community.

(2) The Under Secretary of Defense for Intelligence and Security shall provide to the congressional defense committees and the congressional intelligence committees a briefing on short-, mid-, and long-term strategies to address the validated intelligence and counterintelligence requirements of the relevant combatant commands, including with respect to spaceborne, airborne, ground, maritime, and cyber intelligence, surveillance, and reconnaissance capabilities.

(3) The briefings required by paragraphs (1) and (2) shall be provided at the same time that the President's budget is submitted pursuant to section 1105(a) of title 31 for each of fiscal years 2021 through 2025.

(4) In this subsection:

(A) The term “congressional intelligence committees” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(B) The term “Defense Intelligence Enterprise” means the organizations, infrastructure, and measures, including policies, processes, procedures, and products, of the intelligence, counterintelligence, and security components of each of the following:

- (i) The Department of Defense.
- (ii) The Joint Staff.
- (iii) The combatant commands.
- (iv) The military departments.
- (v) Other elements of the Department of Defense that perform national intelligence, defense intelligence, intelligence-related, counterintelligence, or security functions.

(C) The term “fulfillment rate” means the percentage of combatant command intelligence and counterintelligence requirements satisfied by available, acquired, or realigned intelligence and counterintelligence capabilities or activities.

(D) The term “intelligence community” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(Added Pub. L. 108–136, div. A, title IX, §923(c)(1), Nov. 24, 2003, 117 Stat. 1575; amended Pub. L. 109–364, div. A, title X, §1071(a)(3), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, §931(a)(7), (8), Jan. 28, 2008, 122 Stat. 285; Pub. L. 111–383, div. A, title IX, §922(b), Jan. 7, 2011, 124 Stat. 4331; Pub. L. 115–232, div. A, title XVI, §1625(b), Aug. 13, 2018, 132 Stat. 2121; Pub. L. 116–92, div. A, title XVI, §§1621(e)(1)(A)(vii), 1622, Dec. 20, 2019, 133 Stat. 1733.)

Editorial Notes

CODIFICATION

Subsec. (c) of this section was based on Pub. L. 113–291, div. A, title XVI, §1626, Dec. 19, 2014, 128 Stat. 3635; Pub. L. 115–91, div. A, title XVI, §1624, Dec. 12, 2017, 131 Stat. 1732; Pub. L. 115–232, div. A, title XVI, §1625(a), Aug. 13, 2018, 132 Stat. 2121, which was transferred to this chapter, redesignated as subsec. (c) of this section by Pub. L. 115–232, §1625(b), and subsequently repealed.

AMENDMENTS

2019—Pub. L. 116–92, §1621(e)(1)(A)(vii), substituted “Under Secretary of Defense for Intelligence and Security” for “Under Secretary of Defense for Intelligence” wherever appearing.

Subsec. (a). Pub. L. 116–92, §1622(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to establishment and composition of an Intelligence, Surveillance, and Reconnaissance (ISR) Integration Council.

Subsecs. (b), (c). Pub. L. 116–92, §1622(b), added subsec. (b) and struck out former subsecs. (b) and (c) which related to ISR Integration Roadmap and annual briefing on intelligence, surveillance, and reconnaissance requirements of the combatant commands, respectively.

2018—Subsec. (c). Pub. L. 115–232 transferred section 1626 of Pub. L. 113–291, as amended, to this section and redesignated it as subsec. (c). See Codification note above.

2011—Subsec. (a)(4). Pub. L. 111–383 added par. (4).

2008—Subsecs. (a)(3), (b)(2). Pub. L. 110–181 substituted “Director of National Intelligence” for “Director of Central Intelligence”.

2006—Subsec. (a)(1)(B). Pub. L. 109–364 substituted “coordination” for “coordinated”.

Statutory Notes and Related Subsidiaries

INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES

Pub. L. 108–136, div. A, title IX, §923(a), (b), Nov. 24, 2003, 117 Stat. 1574, 1575, as amended by Pub. L. 111–383, div. A, title IX, §922(a), Jan. 7, 2011, 124 Stat. 4330, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

“(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

“(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum through which the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

“(4) The current funding structure of a National Intelligence Program (NIP) and a Military Intelligence Program (MIP) may not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.

“(5) The position of Under Secretary of Defense for Intelligence [now Under Secretary of Defense for Intelligence and Security] was established in 2002 by Public Law 107–314 [see 10 U.S.C. 137] in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.

“(b) GOAL.—It shall be a goal of the Department of Defense to fully integrate the intelligence, surveil-

lance, and reconnaissance capabilities and coordinate the developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.”

§ 427. Conflict Records Research Center

(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the “Conflict Records Research Center” (in this section referred to as the “Center”).

(b) PURPOSES.—The purposes of the Center shall be the following:

(1) To establish a digital research database, including translations, and to facilitate research and analysis of records captured from countries, organizations, and individuals, now or once hostile to the United States, with rigid adherence to academic freedom and integrity.

(2) Consistent with the protection of national security information, personally identifiable information, and intelligence sources and methods, to make a significant portion of these records available to researchers as quickly and responsibly as possible while taking into account the integrity of the academic process and risks to innocents or third parties.

(3) To conduct and disseminate research and analysis to increase the understanding of factors related to international relations, counterterrorism, and conventional and unconventional warfare and, ultimately, enhance national security.

(4) To collaborate with members of academic and broad national security communities, both domestic and international, on research, conferences, seminars, and other information exchanges to identify topics of importance for the leadership of the United States Government and the scholarly community.

(c) CONCURRENCE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The Secretary of Defense shall seek the concurrence of the Director of National Intelligence to the extent the efforts and activities of the Center involve the entities referred to in subsection (b)(4).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable

organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term “captured record” means a document, audio file, video file, or other material captured during combat operations from countries, organizations, or individuals, now or once hostile to the United States.

(2) The term “gift or donation” means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 113-66, div. A, title X, §1071(a), Dec. 26, 2013, 127 Stat. 867.)

Editorial Notes

PRIOR PROVISIONS

A prior section 427, added Pub. L. 109-364, div. A, title IX, §932(a), Oct. 17, 2006, 120 Stat. 2362, related to submission of an annual report on intelligence oversight activities of the Department of Defense, prior to repeal by Pub. L. 112-81, div. A, title X, §1061(4)(A), Dec. 31, 2011, 125 Stat. 1583.

§ 428. Defense industrial security

(a) RESPONSIBILITY FOR DEFENSE INDUSTRIAL SECURITY.—The Secretary of Defense shall be responsible for the protection of classified information disclosed to contractors of the Department of Defense.

(b) CONSISTENCY WITH EXECUTIVE ORDERS AND DIRECTIVES.—The Secretary shall carry out the responsibility assigned under subsection (a) in a manner consistent with Executive Order 12829 (or any successor order to such executive order) and consistent with policies relating to the National Industrial Security Program (or any successor to such program).

(c) PERFORMANCE OF INDUSTRIAL SECURITY FUNCTIONS FOR OTHER AGENCIES.—The Secretary