

“(B) A report under this paragraph may include a classified annex if the Secretary of State or the Secretary of Defense, as the case may be, considers it necessary.

“(k) TRANSPARENCY.—(1) Not later than 60 days after the date of the submittal to Congress of a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of such report available to the public upon request, and at a reasonable cost.

“(2) Not later than 60 days after the date of the submittal to Congress under subsection (j)(2) of comments on a report under subsection (i), the Secretary of State and the Secretary of Defense shall jointly make copies of such comments available to the public upon request, and at a reasonable cost.

“(l) WAIVER.—(1) The President may waive the requirement under paragraph (1) or (3) of subsection (i) for the inclusion in a report under such paragraph of any element otherwise provided for under such paragraph if the President determines that the waiver is justified for national security reasons.

“(2) The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

“(m) DEFINITIONS.—In this section—

“(1) the term ‘appropriate committees of Congress’ means—

“(A) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

“(B) the Committees on Appropriations, Armed Services, Foreign Affairs, and Oversight and Government Reform [now Committee on Oversight and Accountability] of the House of Representatives; and

“(2) the term ‘amounts appropriated or otherwise made available for the reconstruction of Iraq’ means amounts appropriated or otherwise made available for any fiscal year—

“(A) to the Iraq Relief and Reconstruction Fund, the Iraq Security Forces Fund, and the Commanders’ Emergency Response Program authorized under section 1202 of the National Defense Authorization for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3455-3456); or

“(B) for assistance for the reconstruction of Iraq under—

“(i) the Economic Support Fund authorized under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

“(ii) the International Narcotics Control and Law Enforcement account authorized under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291); or

“(iii) any other provision of law.

“(n) FUNDING.—(1) Of the amounts appropriated for fiscal year 2004 for the Operating Expenses of the Coalition Provisional Authority in title II of this Act [117 Stat. 1226], \$75,000,000 shall be available to carry out this section.

“(2) The amount available under paragraph (1) shall remain available until expended.

“(o) TERMINATION.—(1) The Office of the Inspector General shall terminate 180 days after the date on which amounts appropriated or otherwise made available for the reconstruction of Iraq that are unexpended are less than \$250,000,000.

“(2) The Special Inspector General for Iraq Reconstruction shall, prior to the termination of the Office of the Special Inspector General under paragraph (1), prepare a final forensic audit report on all amounts appropriated or otherwise made available for the reconstruction of Iraq.”

AMTRAK NOT FEDERAL ENTITY; FEDERAL SUBSIDY

Pub. L. 105-134, title IV, § 409(b), (c), Dec. 2, 1997, 111 Stat. 2587, as amended by Pub. L. 117-286, § 4(b)(18), Dec. 27, 2022, 136 Stat. 4345, provided that:

“(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of chapter 4 of title 5, United States Code. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

“(c) FEDERAL SUBSIDY.—

“(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak’s operations and conduct an assessment similar to the assessment required by section 202(a) [Pub. L. 105-134, 49 U.S.C. 24101 note]. The Inspector General shall report the results of the review and assessment to—

“(A) the President of Amtrak;

“(B) the Secretary of Transportation;

“(C) the United States Senate Committee on Appropriations;

“(D) the United States Senate Committee on Commerce, Science, and Transportation;

“(E) the United States House of Representatives Committee on Appropriations; and

“(F) the United States House of Representatives Committee on Transportation and Infrastructure.

“(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

“(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act [Dec. 2, 1997].”

§ 416. Additional provisions with respect to Inspectors General of the intelligence community

(a) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMITTEES.—The term “intelligence committees” means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) URGENT CONCERN.—The term “urgent concern” means any of the following:

(A) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(B) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(C) An action, including a personnel action described in section 2302(a)(2)(A) of this title constituting reprisal or threat of reprisal prohibited under section 407(c) of this title in response to an employee’s reporting an urgent concern in accordance with this section.

(3) EMPLOYEE.—The term “employee” includes a former employee or former contractor, if the complaint or information reported pursuant to this section arises from or relates to the period during which the former employee or former contractor was an employee or contractor, as the case may be.

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

(b) COMPLAINT OR INFORMATION WITH RESPECT TO URGENT CONCERN.—

(1) TO WHOM REPORTS MAY BE MADE; SUPPORT FOR WRITTEN SUBMISSION.—

(A) INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE.—An employee of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, or the National Security Agency, or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information in writing to the Inspector General of the Department of Defense (or designee).

(B) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information in writing to the Inspector General of the Intelligence Community.

(C) INSPECTOR GENERAL OF DEPARTMENT OF JUSTICE.—An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information in writing to the Inspector General of the Department of Justice (or designee).

(D) OTHER APPROPRIATE INSPECTOR GENERAL.—Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of this title, to have as its principal function the conduct of foreign intelligence or counterintelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information in writing to the appropriate Inspector General (or designee) under this chapter, section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517), or section 103H(k) of the National Security Act of 1947 (50 U.S.C. 3033(k)).

(E) SUPPORT FOR WRITTEN SUBMISSION.—The Inspector General shall—

(i) provide reasonable support necessary to ensure that an employee can submit a complaint or information under this paragraph in writing; and

(ii) if such submission is not feasible, shall create a written record of the employee's verbal complaint or information and treat such written record as a written submission.

(2) DESIGNEE TO REPORT COMPLAINT OR INFORMATION TO INSPECTOR GENERAL WITHIN 7 DAYS.—If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint or information to the Inspector General within 7 calendar days of receipt.

(3) DESIGNEES OF INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE.—The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.

(c) INITIAL DETERMINATIONS AND TRANSMITTALS.—

(1) CREDIBILITY.—In accordance with paragraph (2), the Inspector General shall determine whether a complaint or information reported under subsection (b) appears credible. Upon making such a determination, the Inspector General shall transmit to the head of the establishment notice of that determination, together with the complaint or information.

(2) DEADLINE FOR COMPLIANCE.—The Inspector General shall make the determination under paragraph (1) with respect to a complaint or information reported under subsection (b) not later than the end of the 14-calendar-day period beginning on the date on which the employee who reported the complaint or information confirms to the Inspector General the intent of the employee to report to Congress that complaint or information.

(3) CONFLICT OF INTEREST.—If the head of an establishment determines that a complaint or information transmitted under paragraph (1) would create a conflict of interest for the head of the establishment, the head of the establishment shall return the complaint or information to the Inspector General with that determination and the Inspector General shall make the transmission to the Director of National Intelligence and, if the establishment is within the Department of Defense, to the Secretary of Defense. In such a case, the requirements of this section for the head of the establishment apply to each recipient of the Inspector General's transmission.

(d) FORWARDING TRANSMITTALS.—Upon receipt of a transmittal from the Inspector General under subsection (c), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the head of the establishment considers appropriate.

(e) SUBMITTING COMPLAINT OR INFORMATION TO CONGRESS.—

(1) IN GENERAL.—If the Inspector General does not find credible under subsection (c) a complaint or information submitted to the Inspector General under subsection (b), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (c), the employee (subject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(2) LIMITATION.—The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee—

(A) before making such a contact, furnishes to the head of the establishment,

through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the intelligence committees directly; and

(B) obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(3) INTELLIGENCE COMMITTEE RECEIPT OF COMPLAINT OR INFORMATION.—A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee's official capacity as a member or employee of that committee.

(f) NOTIFICATION.—The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(g) NO JUDICIAL REVIEW.—An action taken by the head of an establishment or an Inspector General under subsections (b) through (f) shall not be subject to judicial review.

(h) NOTICE OF SUBMISSION AND DATE.—An individual who has submitted a complaint or information to an Inspector General under this section may notify any member of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, or a staff member of either such Committee, of the fact that such individual has made a submission to that particular Inspector General, and of the date on which such submission was made.

(i) PROTECTION FOR INDIVIDUALS MAKING AUTHORIZED DISCLOSURES.—

(1) DISCLOSURE.—An individual may disclose classified information to an Inspector General of an element of the intelligence community in accordance with the applicable security standards and procedures established under section 102A or 803 of the National Security Act of 1947 (50 U.S.C. 3024, 3162a), chapter 12 of the Atomic Energy Act of 1954 (42 U.S.C. 2161 et seq.), Executive Order 13526 (50 U.S.C. 3161 note; relating to Classified National Security Information), or any applicable provision of law.

(2) DISCLOSURE WITHOUT CLEARANCE OR AUTHORITY.—

(A) TREATMENT.—A disclosure under paragraph (1) of classified information made by an individual without appropriate clearance or authority to access such classified information at the time of the disclosure, but that is otherwise made in accordance with applicable security standards and procedures, shall be treated as an authorized disclosure that does not violate a covered provision.

(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to limit or modify the obligation of an individual to appropriately store, handle, or disseminate classified information in accordance with

applicable security guidance and procedures, including with respect to the removal or retention of classified information.

(C) COVERED PROVISION DEFINED.—In this paragraph, the term “covered provision” means—

(i) any otherwise applicable nondisclosure agreement;

(ii) any otherwise applicable regulation or order issued under the authority of chapter 18 of the Atomic Energy Act of 1954 (42 U.S.C. 2271 et seq.) or Executive Order 13526;

(iii) section 798 of title 18; or

(iv) any other provision of law with respect to the unauthorized disclosure of national security information.

(Pub. L. 117–286, §3(b), Dec. 27, 2022, 136 Stat. 4242; Pub. L. 118–159, div. F, title LXVII, §§6701(c), 6702(c), Dec. 23, 2024, 138 Stat. 2512, 2514.)

AMENDMENTS NOT SHOWN IN TEXT

This section was derived from section 8H of the Inspector General Act of 1978, Pub. L. 95–452, which was set out in the former Appendix to this title, and as it existed as of Oct. 19, 2021. Section 8H of Pub. L. 95–452 was amended by Pub. L. 117–103, div. X, title V, §502(b), Mar. 15, 2022, 136 Stat. 985, and by Pub. L. 117–263, div. F, title LXVI, §6609(b), Dec. 23, 2022, 136 Stat. 3560, prior to being repealed and reenacted as this section by Pub. L. 117–286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4242, 4361. For applicability of those amendments to this section, see section 5(b) of Pub. L. 117–286, set out in a Transitional and Savings Provisions note preceding section 101 of this title.

Section 8H of Pub. L. 95–452 was amended by Pub. L. 117–103 as follows:

(1) in subsection (h)(1) [restated as subsection (a)(2) of this section], by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively (and indenting such clauses accordingly);

(2) by redesignating subsection (h)(1) and (2) [restated as subsection (a)(2) and (1) of this section, respectively] as subparagraphs (A) and (B), respectively (and indenting such subparagraphs accordingly);

(3) in the matter preceding subparagraph (A), as redesignated, by inserting “(1)” before “In this”; and

(4) by adding at the end the following new paragraph:

“(2) Within the executive branch, an Inspector General to whom any complaint or information is reported under this section shall have sole authority to determine whether the complaint or information is a matter of urgent concern under this section.”

Section 8H of Pub. L. 95–452 was amended by Pub. L. 117–263 in subsection (h)(1)(A)(i) by striking “involving” and all that follows through “policy matters.” and inserting “of the Federal Government that is—

“(I) a matter of national security; and

“(II) not a difference of opinion concerning public policy matters.”

Subsection (h)(1)(A)(i) of former section 8H of Pub. L. 95–452 was restated by Pub. L. 117–286 as subsection (a)(2)(A) of this section.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
416	5 U.S.C. App. (IGA § 8H)	Pub. L. 95-452, § 8H, as added Pub. L. 105-272, title VII, § 702(b)(1), Oct. 20, 1998, 112 Stat. 2415; amended Pub. L. 107-108, title III, § 309(b), Dec. 28, 2001, 115 Stat. 1400; Pub. L. 107-306, title VIII, § 825, Nov. 27, 2002, 116 Stat. 2429; Pub. L. 110-417, [div. A], title IX, § 931(b)(2), Oct. 14, 2008, 122 Stat. 4575; Pub. L. 111-259, title IV, § 431(b), Oct. 7, 2010, 124 Stat. 2731; Pub. L. 113-126, title III, § 310, title VI, § 603(a), July 7, 2014, 128 Stat. 1398, 1420; Pub. L. 116-92, div. E, title LXVII, § 6726(c), Dec. 20, 2019, 133 Stat. 2236.

Editorial Notes

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (i)(1), (2)(C)(ii), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919. Chapters 12 and 18 of the Act are classified generally to subchapters XI (§ 2161 et seq.) and XVII (§ 2271 et seq.), respectively, of division A of chapter 23 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

Executive Order 13526, referred to in subsec. (i)(1), (2)(C)(ii), is Ex. Ord. No. 13526, Dec. 29, 2009, 75 F.R. 707, 1013, which is set out as a note under section 3161 of Title 50, War and National Defense.

AMENDMENTS

2024—Subsec. (a)(3). Pub. L. 118-159, § 6701(c)(1), added par. (3).

Subsec. (a)(4). Pub. L. 118-159, § 6702(c)(1), added par. (4).

Subsec. (b)(1). Pub. L. 118-159, § 6701(c)(2)(A), (B), inserted “; support for written submission” after “made” in heading and “in writing” after “may report the complaint or information” wherever appearing in text.

Subsec. (b)(1)(B). Pub. L. 118-159, § 6701(c)(2)(C), inserted “in writing” after “such complaint or information”.

Subsec. (b)(1)(E). Pub. L. 118-159, § 6701(c)(2)(D), added subpar. (E).

Subsec. (c). Pub. L. 118-159, § 6701(c)(3), added pars. (1) and (2), redesignated former par. (2) as (3), and struck out former par. (1) which required the Inspector General to determine the credibility of the complaint or information.

Subsec. (i). Pub. L. 118-159, § 6702(c)(2), added subsec. (i).

§ 417. Special provisions concerning the Department of Homeland Security

(a) IN GENERAL.—

(1) AUTHORITY OF SECRETARY OF HOMELAND SECURITY OVER CERTAIN AUDITS AND INVESTIGATIONS.—Notwithstanding the 2d sentence and last sentence of section 403(a) of this title, the Inspector General of the Department of Homeland Security shall be under the authority, direction, and control of the Secretary of Homeland Security with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(A) intelligence, counterintelligence, or counterterrorism matters;

(B) ongoing criminal investigations or proceedings;

(C) undercover operations;

(D) the identity of confidential sources, including protected witnesses;

(E) other matters the disclosure of which would, in the Secretary’s judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, section 3056A of title 18, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

(F) other matters the disclosure of which would constitute a serious threat to national security.

(2) AUTHORITY OF SECRETARY OF HOMELAND SECURITY TO PROHIBIT CARRYING OUT OR COMPLETING AUDITS OR INVESTIGATIONS.—With respect to the information described in paragraph (1), the Secretary of Homeland Security may prohibit the Inspector General of the Department of Homeland Security from carrying out or completing any audit or investigation, from accessing information described in paragraph (1), or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation, access such information, or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in paragraph (1), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(3) NOTIFICATION OF EXERCISE OF POWER.—If the Secretary of Homeland Security exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General of the Department of Homeland Security in writing within 7 days, stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress the following—

(A) a copy of such notice; and

(B) a written response to such notice that includes a statement regarding whether the Inspector General agrees or disagrees with such exercise, and the reasons for any disagreement.

(b) NOT A LIMITATION ON CONGRESSIONAL ACCESS TO INFORMATION.—The exercise of authority by the Secretary described in subsection (a)(2) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(c) AUTHORITY OF INSPECTOR GENERAL TO INITIATE, CONDUCT, AND SUPERVISE AUDITS AND INVESTIGATIONS.—Subject to the conditions established in subsections (a) and (b), in carrying out the duties and responsibilities specified in this chapter, the Inspector General of the Department of Homeland Security may initiate, conduct, and supervise such audits and investigations in the Department of Homeland Security as the Inspector General considers appropriate.

(d) REPORTS.—Any report required to be transmitted by the Secretary of Homeland Security to the appropriate committees or subcommit-