

Agency, was renumbered by subsequent acts and transferred. See section 3142 of this title.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-458, §1071(a)(1)(G), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (a)(2). Pub. L. 108-458, §1071(a)(2)(B), struck out “of Central Intelligence” after “Director”.

Subsec. (b). Pub. L. 108-458, §1071(a)(2)(C), struck out “of Central Intelligence” after “notice to the Director”.

Pub. L. 108-458, §1071(a)(1)(H), substituted “with the Director of National Intelligence” for “with the Director of Central Intelligence”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

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

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

§ 3040a. Prohibition on collection and maintenance of information of United States persons based on first amendment-protected activities

No element of the intelligence community may collect or maintain information concerning a United States person (as defined in section 3039 of this title) solely for the purpose of monitoring an activity protected by the first amendment to the Constitution of the United States.

(July 26, 1947, ch. 343, title I, §105C, as added Pub. L. 117-103, div. X, title III, §303, Mar. 15, 2022, 136 Stat. 965.)

§ 3041. Appointment of officials responsible for intelligence-related activities

(a) Recommendation of DNI in certain appointments

(1) In the event of a vacancy in a position referred to in paragraph (2), the Director of National Intelligence shall recommend to the President an individual for nomination to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

(A) The Principal Deputy Director of National Intelligence.

(B) The Director of the Central Intelligence Agency.

(b) Concurrence of DNI in appointments to positions in the intelligence community

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned

may not fill the vacancy or make the recommendation to the President (as the case may be). In the case in which the Director does not concur in such a recommendation, the Director and the head of the department or agency concerned may advise the President directly of the intention to withhold concurrence or to make a recommendation, as the case may be.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(D) The Assistant Secretary of State for Intelligence and Research.

(E) The Director of the Office of Intelligence and Counterintelligence of the Department of Energy.

(F) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(G) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.

(H) The Under Secretary of Homeland Security for Intelligence and Analysis.

(c) Consultation with DNI in certain positions

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Defense Intelligence Agency.

(B) The Assistant Commandant of the Coast Guard for Intelligence.

(C) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28.

(July 26, 1947, ch. 343, title I, §106, as added Pub. L. 102-496, title VII, §706(a), Oct. 24, 1992, 106 Stat. 3195; amended Pub. L. 103-359, title V, §501(a)(3), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104-293, title VIII, §815(a), Oct. 11, 1996, 110 Stat. 3484; Pub. L. 107-108, title III, §308, Dec. 28, 2001, 115 Stat. 1399; Pub. L. 108-136, div. A, title IX, §921(e)(5), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108-177, title I, §105(c), Dec. 13, 2003, 117 Stat. 2603; Pub. L. 108-458, title I, §1014, Dec. 17, 2004, 118 Stat. 3663; Pub. L. 109-177, title V, §506(a)(4), Mar. 9, 2006, 120 Stat. 247; Pub. L. 110-53, title V, §531(b)(5), Aug. 3, 2007, 121 Stat. 334; Pub. L. 116-92, div. E, title LXVII, §§6742(b)(2), 6744(c), Dec. 20, 2019, 133 Stat. 2239, 2241.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 403-6 of this title prior to editorial reclassification and renumbering as this section.