

Subsec. (a). Pub. L. 115-31, §401(a)(3), provided that the amendment made by Pub. L. 114-113, §401(a), was deemed to not have taken effect. See 2015 Amendment and Effective Date of 2015 Amendment notes below.

2015—Subsec. (a). Pub. L. 114-113, which directed that subsec. (a) be amended to read as follows:

“(a) ESTABLISHMENT.—There shall be a National Counterintelligence Executive who shall be appointed by the President, by and with the advice and consent of the Senate.”,

was deemed to not have taken effect by Pub. L. 115-31, §401(a)(3). See 2017 Amendment note above.

2004—Subsec. (a)(1). Pub. L. 108-458, §1072(d)(1)(B)(i), substituted “Director of National Intelligence” for “President”.

Subsec. (a)(2). Pub. L. 108-458, §1072(d)(1)(B), substituted “Director of National Intelligence” for “President” and “Director of the Central Intelligence Agency” for “Director of Central Intelligence”.

Subsec. (c). Pub. L. 108-458, §1072(d)(1)(B)(i), substituted “Director of National Intelligence” for “President” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 115-31, div. N, title IV, §401(a)(3), May 5, 2017, 131 Stat. 817, provided that: “The amendment made by subsection (a) of section 401 of the Intelligence Authorization Act for Fiscal Year 2016 (division M of Public Law 114-113) [amending this section] shall not take effect, or, if the date of the enactment of this Act [May 5, 2017] is on or after the effective date specified in subsection (b) of such section [Dec. 18, 2016, see note below], such amendment shall be deemed to not have taken effect.”

Pub. L. 114-113, div. M, title IV, §401(b), Dec. 18, 2015, 129 Stat. 2921, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 18, 2015].”

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.

PURPOSE

Pub. L. 107-306, title IX, §901(b), Nov. 27, 2002, 116 Stat. 2432, provided that: “The purpose of this title [see Tables for classification] is to facilitate the enhancement of the counterintelligence activities of the United States Government by—

“(1) enabling the counterintelligence community of the United States Government to fulfill better its mission of identifying, assessing, prioritizing, and countering the intelligence threats to the United States;

“(2) ensuring that the counterintelligence community of the United States Government acts in an efficient and effective manner; and

“(3) providing for the integration of all the counterintelligence activities of the United States Government.”

§ 3383. National Counterintelligence and Security Center

(a) Establishment

There shall be a National Counterintelligence and Security Center.

(b) Head of Center

The Director of the National Counterintelligence and Security Center shall be the head of the National Counterintelligence and Security Center.

(c) Location of Center

The National Counterintelligence and Security Center shall be located in the Office of the Director of National Intelligence.

(d) Mission

The mission of the National Counterintelligence and Security Center shall include organizing and leading strategic planning for counterintelligence activities of the United States Government by integrating instruments of national power as needed to counter foreign intelligence activities.

(e) Functions

Subject to the direction and control of the Director of the National Counterintelligence and Security Center, the functions of the National Counterintelligence and Security Center shall be as follows:

(1) National threat identification and prioritization assessment

Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) National Counterintelligence Strategy

(A) Requirement to produce

Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(B) Revision and requirement

The National Counterintelligence Strategy shall be revised or updated at least once every three years and shall be aligned with the strategy and policies of the Director of National Intelligence.

(3) Implementation of National Counterintelligence Strategy

To evaluate on an ongoing basis the implementation of the National Counterintelligence Strategy and to submit to the President periodic reports on such evaluation, including a discussion of any shortfalls in the implementation of the Strategy and recommendations for remedies for such shortfalls.

(4) National counterintelligence strategic analyses

As directed by the Director of National Intelligence and in consultation with appropriate elements of the departments and agen-

cies of the United States Government, to oversee and coordinate the production of strategic analyses of counterintelligence matters, including the production of counterintelligence damage assessments and assessments of lessons learned from counterintelligence activities.

(5) National counterintelligence program budget

At the direction of the Director of National Intelligence—

(A) to coordinate the development of budgets and resource allocation plans for the counterintelligence programs and activities of the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and other appropriate elements of the United States Government;

(B) to ensure that the budgets and resource allocation plans developed under subparagraph (A) address the objectives and priorities for counterintelligence under the National Counterintelligence Strategy; and

(C) to submit to the National Security Council periodic reports on the activities undertaken by the Office under subparagraphs (A) and (B).

(6) National counterintelligence collection and targeting coordination

To develop priorities for counterintelligence investigations and operations, and for collection of counterintelligence, for purposes of the National Counterintelligence Strategy, except that the National Counterintelligence and Security Center may not—

(A) carry out any counterintelligence investigations or operations; or

(B) establish its own contacts, or carry out its own activities, with foreign intelligence services.

(7) National counterintelligence outreach, watch, and warning

(A) Counterintelligence vulnerability assessments and surveys

To develop standards and criteria for counterintelligence risk assessments and surveys of the vulnerability of the United States to intelligence threats, including with respect to critical infrastructure and critical technologies, in order to identify the areas, programs, and activities that require protection from such threats.

(B) Outreach

To carry out and coordinate outreach programs and activities on counterintelligence to other elements of the United States Government, and the private sector, and to coordinate the dissemination to the public of warnings on intelligence threats to the United States.

(C) Research and development

To ensure that research and development programs and activities of the United States Government, and the private sector, direct attention to the needs of the counterintelligence community for technologies, products, and services.

(D) Training and professional development

To develop policies and standards for training and professional development of individuals engaged in counterintelligence activities and to manage the conduct of joint training exercises for such personnel.

(E) Vulnerabilities from foreign commercial spyware

(i) Consultation

In carrying out efforts to secure covered devices, to consult with the private sector of the United States and reputable third-party researchers to identify vulnerabilities from foreign commercial spyware (as defined in section 3232a(a) of this title) and maintain effective security measures for such devices.

(ii) Covered device defined

In this subparagraph, the term “covered device” means any electronic mobile device including smartphones, tablet computing devices, or laptop computing devices, that is issued by an element of the intelligence community for official use.

(f) Additional requirements regarding National Threat Identification and Prioritization Assessment and National Counterintelligence Strategy

(1) A National Threat Identification and Prioritization Assessment under subsection (e)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under subsection (e)(2), and any modification of such strategy, shall not go into effect until approved by the President.

(3) The Director of the National Counterintelligence and Security Center shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or modification thereof, approved under this section.

(4) In this subsection, 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.

(g) Personnel

(1) Personnel of the National Counterintelligence and Security Center may consist of personnel employed by the Center or personnel on detail from any other department, agency, or element of the Federal Government. Any such detail may be on a reimbursable or nonreimbursable basis, at the election of the head of the agency detailing such personnel.

(2) Notwithstanding section 104(d)¹ or any other provision of law limiting the period of the detail of personnel on a nonreimbursable basis, the detail of an officer or employee of United States or a member of the Armed Forces under paragraph (1) on a nonreimbursable basis may be for any period in excess of one year that the Di-

¹ See References in Text note below.

rector of the National Counterintelligence and Security Center and the head of the department, agency, or element concerned consider appropriate.

(h) Treatment of activities under certain administrative laws

The files of the National Counterintelligence and Security Center shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 3141) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

(i) Oversight by Congress

The location of the National Counterintelligence and Security Center within the Office of the Director of National Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

- (1) any information, document, record, or paper in the possession of the Center; or
- (2) any personnel of the Center.

(j) Construction

Nothing in this section shall be construed as affecting the authority of the Director of National Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

(Pub. L. 107–306, title IX, §904, Nov. 27, 2002, 116 Stat. 2434; Pub. L. 108–458, title I, §§1071(g)(2)(B), 1072(d)(1)(C), Dec. 17, 2004, 118 Stat. 3691, 3693; Pub. L. 111–259, title IV, §412, Oct. 7, 2010, 124 Stat. 2725; Pub. L. 112–18, title IV, §401, June 8, 2011, 125 Stat. 227; Pub. L. 112–87, title III, §311(b), Jan. 3, 2012, 125 Stat. 1886; Pub. L. 115–31, div. N, title IV, §401(b)(1)–(5), May 5, 2017, 131 Stat. 817, 818; Pub. L. 117–263, div. F, title LXIII, §6318(d)(4), Dec. 23, 2022, 136 Stat. 3521; Pub. L. 118–31, div. G, title III, §§7303, 7305(a), (b)(1), Dec. 22, 2023, 137 Stat. 1025, 1026; Pub. L. 118–159, div. F, title LXIII, §6302, Dec. 23, 2024, 138 Stat. 2471.)

Editorial Notes

REFERENCES IN TEXT

Section 104(d), referred to in subsec. (g)(2), is section 104(d) of Pub. L. 107–306, title I, Nov. 27, 2002, 116 Stat. 2387, which is not classified to the Code.

The National Security Act of 1947, referred to in subsec. (j), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

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

AMENDMENTS

2024—Subsec. (f)(3). Pub. L. 118–159 substituted “Director of the National Counterintelligence and Security Center” for “National Counterintelligence Executive”.

2023—Subsec. (d). Pub. L. 118–31, §7305(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (d)(7)(A). Pub. L. 118–31, §7303, amended subpar. (A) generally. Prior to amendment, text read as follows: “To carry out and coordinate surveys of the vulnerability of the United States Government, and the private sector, to intelligence threats in order to identify the areas, programs, and activities that require protection from such threats.”

Subsec. (e). Pub. L. 118–31, §7305(a)(1), (b)(1)(A), redesignated subsec. (d) as (e) and substituted “Subject to subsection (f)” for “Subject to subsection (e)” in pars. (1) and (2)(A). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 118–31, §7305(a)(1), (b)(1)(B), redesignated subsec. (e) as (f) and substituted “subsection (e)(1)” for “subsection (d)(1)” in par. (1) and “subsection (e)(2)” for “subsection (d)(2)” in par. (2). Former subsec. (f) redesignated (g).

Subsecs. (g) to (j). Pub. L. 118–31, §7305(a)(1), redesignated subsecs. (f) to (i) as (g) to (j), respectively.

2022—Subsec. (d)(7)(E). Pub. L. 117–263 added subpar. (E).

2017—Pub. L. 115–31, §401(b)(1)(A), substituted “National Counterintelligence and Security Center” for “Office of the National Counterintelligence Executive” in section catchline.

Subsecs. (a) to (c). Pub. L. 115–31, §401(b)(1)(B), added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which related to establishment of Office of the National Counterintelligence Executive, head of Office, and location of Office, respectively.

Subsec. (d). Pub. L. 115–31, §401(b)(2)(A), substituted “Director of the National Counterintelligence and Security Center, the functions of the National Counterintelligence and Security Center” for “National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive” in introductory provisions.

Subsec. (d)(5). Pub. L. 115–31, §401(b)(2)(B), substituted “At the direction of” for “In consultation with” in introductory provisions.

Subsec. (d)(6). Pub. L. 115–31, §401(b)(2)(C), substituted “National Counterintelligence and Security Center” for “Office” in introductory provisions.

Subsec. (f)(1). Pub. L. 115–31, §401(b)(3)(A), substituted “National Counterintelligence and Security Center may consist of personnel employed by the Center” for “Office of the National Counterintelligence Executive may consist of personnel employed by the Office”.

Subsec. (f)(2). Pub. L. 115–31, §401(b)(3)(B), substituted “Director of the National Counterintelligence and Security Center” for “National Counterintelligence Executive”.

Subsec. (g). Pub. L. 115–31, §401(b)(4), substituted “National Counterintelligence and Security Center shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 3141)” for “Office shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431)”.

Subsec. (h). Pub. L. 115–31, §401(b)(5)(A), substituted “National Counterintelligence and Security Center” for “Office of the National Counterintelligence Executive” in introductory provisions.

Subsec. (h)(1), (2). Pub. L. 115–31, §401(b)(5)(B), substituted “Center” for “Office”.

2012—Subsec. (d)(1). Pub. L. 112–87 struck out “on an annual basis” after “to produce”.

2011—Subsec. (d)(2). Pub. L. 112–18 inserted subpar. (A) designation and heading, struck out “on an annual basis” after “to produce”, and added subpar. (B).

2010—Subsec. (d). Pub. L. 111–259, §412(a)(1), (2), redesignated subsec. (e) as (d) and struck out former subsec. (d). Text read as follows:

“(1) There shall be in the Office of the National Counterintelligence Executive a general counsel who shall serve as principal legal advisor to the National Counterintelligence Executive.

“(2) The general counsel shall—

“(A) provide legal advice and counsel to the Executive on matters relating to functions of the Office;

“(B) ensure that the Office complies with all applicable laws, regulations, Executive orders, and guidelines; and

“(C) carry out such other duties as the Executive may specify.”

Subsec. (d)(1), (2). Pub. L. 111-259, §412(b)(1), substituted “subsection (e)” for “subsection (f)”.

Subsec. (e). Pub. L. 111-259, §412(a)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(1). Pub. L. 111-259, §412(b)(2)(A), substituted “subsection (d)(1)” for “subsection (e)(1)”.

Subsec. (e)(2). Pub. L. 111-259, §412(b)(2)(B), substituted “subsection (d)(2)” for “subsection (e)(2)”.

Subsec. (f). Pub. L. 111-259, §412(a)(2), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(3), (4). Pub. L. 111-259, §412(a)(3), struck out pars. (3) and (4) which read as follows:

“(3) The employment of personnel by the Office, including the appointment, compensation and benefits, management, and separation of such personnel, shall be governed by the provisions of law on such matters with respect to the personnel of the Central Intelligence Agency, except that, for purposes of the applicability of such provisions of law to personnel of the Office, the National Counterintelligence Executive shall be treated as the head of the Office.

“(4) Positions in the Office shall be excepted service positions for purposes of title 5.”

Subsecs. (g) to (m). Pub. L. 111-259, §412(a)(1), (2), redesignated subsecs. (k) to (m) as (g) to (i), respectively, and struck out former subsecs. (h) to (j) which related to support, availability of funds for reimbursement, and contracts, respectively. Former subsec. (g) redesignated (f).

2004—Subsec. (c). Pub. L. 108-458, §1072(d)(1)(C)(i), substituted “Office of the Director of National Intelligence” for “Office of the Director of Central Intelligence”.

Subsec. (e)(4). Pub. L. 108-458, §1071(g)(2)(B)(i), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (e)(5). Pub. L. 108-458, §1071(g)(2)(B)(ii), substituted “Director of National Intelligence” for “Director of Central Intelligence” in introductory provisions.

Subsec. (h)(1), (2). Pub. L. 108-458, §1071(g)(2)(B)(iii), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (l). Pub. L. 108-458, §1072(d)(1)(C)(ii), substituted “Office of the Director of National Intelligence” for “Office of the Director of Central Intelligence” in introductory provisions.

Subsec. (m). Pub. L. 108-458, §1071(g)(2)(B)(iv), substituted “Director of National Intelligence” for “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.

RULE OF CONSTRUCTION—NO ENHANCED AUTHORITIES

Nothing in amendment made by Pub. L. 117-263 to be construed as enhancing, or otherwise changing, the authorities of the intelligence community to target, collect, process, or disseminate information regarding United States Government personnel, see section 6318(e) of Pub. L. 117-263, set out as a note under section 3232a of this title.

§ 3384. Intelligence Community Counterintelligence Office at the Department of Agriculture

(a) Definitions

In this section:

(1) Department

The term “Department” means the Department of Agriculture.

(2) Secretary

The term “Secretary” means the Secretary of Agriculture.

(b) Omitted

(c) Establishment of Intelligence Community Counterintelligence Office

(1) Agreement with Secretary of Agriculture

The Director of National Intelligence, acting through the Director of the National Counterintelligence and Security Center, shall seek to enter into an agreement with the Secretary under which the Director of National Intelligence and the Secretary shall establish within the Department an office, which shall be known as the “Intelligence Community Counterintelligence Office”, in accordance with this section.

(2) Location

The Intelligence Community Counterintelligence Office established pursuant to this section shall be physically located within the headquarters of the Department and within reasonable proximity to the offices of the leadership of the Department.

(3) Security

The Director of the National Counterintelligence and Security Center shall be responsible for the protection of classified information and for the establishment and enforcement of all security-related controls within the Intelligence Community Counterintelligence Office.

(d) Personnel

(1) Director

(A) Appointment

There shall be at the head of the Intelligence Community Counterintelligence Office a Director who is appointed by the Director of National Intelligence. The Director of the Intelligence Community Counterintelligence Office shall—

(i) be supervised and subject to performance evaluations by the Director of the National Counterintelligence and Security Center, in consultation with the Secretary;

(ii) be an employee of the intelligence community with significant counterintelligence experience; and

(iii) serve for a period of 3 years.

(B) Responsibilities

The Director of the Intelligence Community Counterintelligence Office shall carry out the following responsibilities:

(i) Serving as the head of the Intelligence Community Counterintelligence