

PILOT OUTREACH PROGRAM TO REDUCE DEMAND FOR  
ILLEGAL DRUGS

Section 1045 of Pub. L. 102-484, required Secretary of Defense to conduct pilot outreach program to reduce demand for illegal drugs, required program to include outreach activities by active and reserve components of Armed Forces and focus primarily on youths in general and inner-city youths in particular, and related to payment of travel and living expenses, funding, duration of program, and reporting requirements, prior to repeal by Pub. L. 104-106, div. A, title V, § 571(b), Feb. 10, 1996, 110 Stat. 353.

CONGRESSIONAL FINDINGS

Section 1081(a) of Pub. L. 102-484, related to findings of Congress as to use of military resources to assist in addressing domestic needs, prior to repeal by Pub. L. 104-106, div. A, title V, § 571(a)(2), Feb. 10, 1996, 110 Stat. 353.

**CHAPTER 21—DEPARTMENT OF DEFENSE  
INTELLIGENCE MATTERS**

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AMENDMENTS

1991—Pub. L. 102-88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added items for subchapters I and II.

**SUBCHAPTER I—GENERAL MATTERS**

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421.	Funds for foreign cryptologic support.
422.	Use of funds for certain incidental purposes.
423.	Authority to use proceeds from counter-intelligence operations of the military departments or the Defense Intelligence Agency.
424.	Disclosure of organizational and personnel information: exemption for specified intelligence agencies.
425.	Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies.
426.	Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities.
[427.	Repealed.]
428.	Defense industrial security.
429.	Appropriations for Defense intelligence elements: accounts for transfers; transfer authority.

AMENDMENTS

2012—Pub. L. 112-87, title IV, § 433(b), Jan. 3, 2012, 125 Stat. 1895, added item 429.

2011—Pub. L. 112-81, div. A, title X, § 1061(4)(B), Dec. 31, 2011, 125 Stat. 1583, struck out item 427 “Intelligence oversight activities of Department of Defense: annual reports”.

Pub. L. 111-383, div. A, title X, § 1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, made technical correction to directory language of Pub. L. 111-84, § 921(b)(2). See 2009 Amendment note below.

2009—Pub. L. 111-84, div. A, title X, § 1073(a)(5), Oct. 28, 2009, 123 Stat. 2472, redesignated item 438 as 428.

Pub. L. 111-84, div. A, title IX, § 921(b)(2), Oct. 28, 2009, 123 Stat. 2432, as amended by Pub. L. 111-383, div. A, title X, § 1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, added item 423 and struck out former item 423 “Authority to use proceeds from counterintelligence operations of the military departments”.

2008—Pub. L. 110-417, [div. A], title VIII, § 845(a)(2), Oct. 14, 2008, 122 Stat. 4542, added item 438.

2006—Pub. L. 109-364, div. A, title IX, § 932(b), Oct. 17, 2006, 120 Stat. 2363, added item 427.

2003—Pub. L. 108-136, div. A, title IX, § 921(d)(5)(B)(ii), 923(c)(2), Nov. 24, 2003, 117 Stat. 1569, 1576, substituted

“Disclosure of organizational and personnel information: exemption for specified intelligence agencies” for “Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency” in item 424 and added item 426. 2001—Pub. L. 107-108, title V, § 501(b)(3), Dec. 28, 2001, 115 Stat. 1404, substituted “Use of funds for certain incidental purposes” for “Counterintelligence official reception and representation expenses” in item 422.

1997—Pub. L. 105-107, title V, § 503(d)(2), Nov. 20, 1997, 111 Stat. 2263, added items 424 and 425 and struck out former items 424 “Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency” and 425 “Disclosure of personnel information: exemption for National Reconnaissance Office”.

1993—Pub. L. 103-178, title V, § 503(a)(2), Dec. 3, 1993, 107 Stat. 2039, added item 425.

1991—Pub. L. 102-88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added subchapter heading.

1989—Pub. L. 101-189, div. A, title XVI, § 1622(c)(2), Nov. 29, 1989, 103 Stat. 1604, substituted “Funds for foreign cryptologic support” for “Funds for Foreign Cryptologic Support” in item 421.

1988—Pub. L. 100-453, title VII, §§ 701(b), 703(b), Sept. 29, 1988, 102 Stat. 1912, 1913, in item 421 substituted “Funds for Foreign Cryptologic Support” for “Funds transfers for foreign cryptologic support” and added item 424.

1987—Pub. L. 100-180, div. A, title XII, § 1231(3), Dec. 4, 1987, 101 Stat. 1160, substituted “departments” for “department” in item 423.

**§ 421. Funds for foreign cryptologic support**

(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.

(Added Pub. L. 96-450, title IV, § 401(a), Oct. 14, 1980, 94 Stat. 1977, § 140a; amended Pub. L. 97-258, § 3(b)(2), Sept. 13, 1982, 96 Stat. 1063; renumbered § 128 and amended Pub. L. 99-433, title I, §§ 101(a)(3), 110(d)(5), Oct. 1, 1986, 100 Stat. 994, 1002; renumbered § 421, Pub. L. 100-26, § 9(a)(2),

Apr. 21, 1987, 101 Stat. 287; Pub. L. 100-453, title VII, § 701(a), Sept. 29, 1988, 102 Stat. 1911; Pub. L. 101-189, div. A, title XVI, § 1622(c)(3), Nov. 29, 1989, 103 Stat. 1604.)

## REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§413 et seq.) of chapter 15 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50 and Tables.

## AMENDMENTS

1989—Subsec. (c). Pub. L. 101-189 substituted “House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds” for “House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds”.

1988—Pub. L. 100-453 struck out “transfers” after “Funds” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.”

1987—Pub. L. 100-26 renumbered section 128 of this title as this section.

1986—Pub. L. 99-433 renumbered section 140a of this title as section 128 of this title and substituted “Funds” for “Secretary of Defense: funds” in section catchline.

1982—Pub. L. 97-258 struck out provision that payments under this section could be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).

## COMPREHENSIVE INDEPENDENT STUDY OF NATIONAL CRYPTOGRAPHY POLICY

Pub. L. 103-160, div. A, title II, §267, Nov. 30, 1993, 107 Stat. 1611, directed Secretary of Defense, not later than 90 days after Nov. 30, 1993, to request National Research Council of National Academy of Sciences to conduct a comprehensive study to assess effect of cryptographic technologies on national security, law enforcement, commercial, and privacy interests, and effect of export controls on commercial interests, with cooperation of other agencies, and report findings and conclusions within 2 years after processing of security clearances to Secretary of Defense, and directed Secretary to submit a report in unclassified form to Committee on Armed Services, Committee on the Judiciary, and Select Committee on Intelligence of Senate and to Committee on Armed Services, Committee on the Judiciary, and Permanent Select Committee on Intelligence of House of Representatives, not later than 120 days after the report is submitted to the Secretary.

**§ 422. Use of funds for certain incidental purposes**

(a) COUNTERINTELLIGENCE OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters.

(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.

(Added Pub. L. 99-569, title IV, §401(c), Oct. 27, 1986, 100 Stat. 3195, §140a; renumbered §422, Pub. L. 100-26, §9(a)(3), Apr. 21, 1987, 101 Stat. 287; amended Pub. L. 107-108, title V, §501(a)-(b)(2), Dec. 28, 2001, 115 Stat. 1404.)

## AMENDMENTS

2001—Pub. L. 107-108 substituted “Use of funds for certain incidental purposes” for “Counterintelligence official reception and representation expenses” in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1987—Pub. L. 100-26 renumbered section 140a of this title as this section.

**§ 423. Authority to use proceeds from counterintelligence operations of the military departments or the Defense Intelligence Agency**

(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, use of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency, including effective internal systems of accounting and administrative controls.

(Added Pub. L. 99-569, title IV, §403(a), Oct. 27, 1986, 100 Stat. 3196, §140b; renumbered §423 and amended Pub. L. 100-26, §9(a)(3), (b)(3), Apr. 21, 1987, 101 Stat. 287; Pub. L. 111-84, div. A, title IX, §921(a), (b)(1), Oct. 28, 2009, 123 Stat. 2432.)

## AMENDMENTS

2009—Pub. L. 111-84 inserted “or the Defense Intelligence Agency” after “military departments” wherever appearing.

1987—Pub. L. 100-26 renumbered section 140b of this title as this section and struck out “United States Code,” after “section 3302 of title 31,” in subsec. (a).

**§ 424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies**

(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of—

(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or

(2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.

(b) COVERED ORGANIZATIONS.—This section applies to the following organizations of the Department of Defense:

- (1) The Defense Intelligence Agency.
- (2) The National Reconnaissance Office.
- (3) The National Geospatial-Intelligence Agency.

(c) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.

(Added Pub. L. 104-201, div. A, title XI, §1112(d), Sept. 23, 1996, 110 Stat. 2683; amended Pub. L. 108-136, div. A, title IX, §921(d)(5)(A), (B)(i), Nov. 24, 2003, 117 Stat. 1569.)

#### PRIOR PROVISIONS

A prior section 424, added Pub. L. 100-178, title VI, §603(a), Dec. 2, 1987, 101 Stat. 1016, §1607; renumbered §424 and amended Pub. L. 100-453, title VII, §703(a), Sept. 29, 1988, 102 Stat. 1912, related to disclosure of organizational and personnel information with respect to the Defense Intelligence Agency 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.

#### AMENDMENTS

2003—Pub. L. 108-136, §921(d)(5)(B)(i), substituted “Disclosure of organizational and personnel information: exemption for specified intelligence agencies” for “Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency” in section catchline.

Subsec. (b)(3). Pub. L. 108-136, §921(d)(5)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

#### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

#### DISCLOSURE OF GOVERNMENTAL AFFILIATION BY DEPARTMENT OF DEFENSE INTELLIGENCE PERSONNEL OUTSIDE OF UNITED STATES

Pub. L. 103-359, title V, §503, Oct. 14, 1994, 108 Stat. 3430, provided that:

“(a) IN GENERAL.—Notwithstanding section 552a(e)(3) of title 5, United States Code, intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources shall not be required, when making an initial assessment contact outside the United States, to give notice of governmental affiliation to potential sources who are United States persons.

“(b) RECORDS.—Records concerning such contacts shall be maintained by the Department of Defense and made available upon request to the appropriate committees of the Congress in accordance with applicable security procedures. Such records shall include for each such contact an explanation of why notice of government affiliation could not reasonably be provided, the nature of the information obtained from the United States person as a result of the contact, and whether additional contacts resulted with the person concerned.

“(c) DEFINITIONS.—For the purposes of this section—

“(1) the term ‘United States’ includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

“(2) the term ‘United States person’ means any citizen, national, or permanent resident alien of the United States.”

#### EXEMPTION FOR NATIONAL RECONNAISSANCE OFFICE FROM ANY REQUIREMENT FOR DISCLOSURE OF PERSONNEL INFORMATION

Pub. L. 102-496, title IV, §406, Oct. 24, 1992, 106 Stat. 3186, which provided that, except as required by Presi-

dent and except with respect to provision of information to Congress, nothing in Pub. L. 102-496 or any other provision of law was to be construed to require disclosure of name, title, or salary of any person employed by, or assigned or detailed to, National Reconnaissance Office or disclosure of number of such persons, was repealed and restated in former section 425 of this title by Pub. L. 103-178, title V, §503(a)(1), (b), Dec. 3, 1993, 107 Stat. 2038, 2039.

#### § 425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies

(a) PROHIBITION.—Except with the written permission of both the Secretary of Defense and the Director of National Intelligence, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary and the Director, any of the following (or any colorable imitation thereof):

(1) The words “Defense Intelligence Agency”, the initials “DIA”, or the seal of the Defense Intelligence Agency.

(2) The words “National Reconnaissance Office”, the initials “NRO”, or the seal of the National Reconnaissance Office.

(3) The words “National Imagery and Mapping Agency”, the initials “NIMA”, or the seal of the National Imagery and Mapping Agency.

(4) The words “Defense Mapping Agency”, the initials “DMA”, or the seal of the Defense Mapping Agency.

(5) The words “National Geospatial-Intelligence Agency”, the initials “NGA,” or the seal of the National Geospatial-Intelligence Agency.

(b) AUTHORITY TO ENJOIN VIOLATIONS.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Added and amended Pub. L. 105-107, title V, §503(a), (b), Nov. 20, 1997, 111 Stat. 2262; Pub. L. 108-136, div. A, title IX, §921(d)(6), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110-181, div. A, title IX, §931(a)(6), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, §932(a)(6), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

#### 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.

## 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 shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council—

(A) to assist the Under Secretary with respect to matters relating to the integration of intelligence, surveillance, and reconnaissance capabilities, and coordination of related developmental activities, of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands; and

(B) otherwise to provide a means to facilitate the integration of such capabilities and the coordination of such developmental activities.

(2) The Council shall be composed of—

(A) the senior intelligence officers of the armed forces and the United States Special Operations Command;

(B) the Director of Operations of the Joint Staff; and

(C) the directors of the intelligence agencies of the Department of Defense.

(3) The Under Secretary of Defense for Intelligence shall invite the participation of the Director of National Intelligence (or that Director's representative) in the proceedings of the Council.

(4) Each Secretary of a military department may designate an officer or employee of such military department to attend the proceedings of the Council as a representative of such military department.

(b) **ISR INTEGRATION ROADMAP.**—(1) The Under Secretary of Defense for Intelligence shall de-

velop a comprehensive plan, to be known as the “Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap”, to guide the development and integration of the Department of Defense intelligence, surveillance, and reconnaissance capabilities for the 15-year period of fiscal years 2004 through 2018.

(2) The Under Secretary shall develop the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap in consultation with the Intelligence, Surveillance, and Reconnaissance Integration Council and the Director of National Intelligence.

(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.)

## AMENDMENTS

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 “coordination”.

#### 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 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, surveillance, 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. Repealed. Pub. L. 112-81, div. A, title X, § 1061(4)(A), Dec. 31, 2011, 125 Stat. 1583]**

Section, 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.

**§ 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 may perform industrial security functions for other agencies of the Federal government upon request or upon designation of the Department of Defense as executive agent for the National Industrial Security Program (or any successor to such program).

(d) REGULATIONS AND POLICY GUIDANCE.—The Secretary shall prescribe, and from time to time revise, such regulations and policy guidance as are necessary to ensure the protection of classified information disclosed to contractors of the Department of Defense.

(e) DEDICATION OF RESOURCES.—The Secretary shall ensure that sufficient resources are provided to staff, train, and support such personnel as are necessary to fully protect classified information disclosed to contractors of the Department of Defense.

(f) BIENNIAL REPORT.—The Secretary shall report biennially to the congressional defense committees on expenditures and activities of the Department of Defense in carrying out the requirements of this section. The Secretary shall submit the report at or about the same time that the President's budget is submitted pursuant to section 1105(a) of title 31 in odd numbered years. The report shall be in an unclassified form (with a classified annex if necessary) and shall cover the activities of the Department of Defense in the preceding two fiscal years, including the following:

(1) The workforce responsible for carrying out the requirements of this section, including the number and experience of such workforce; training in the performance of industrial security functions; performance metrics; and resulting assessment of overall quality.

(2) A description of funds authorized, appropriated, or reprogrammed to carry out the requirements of this section, the budget execution of such funds, and the adequacy of budgets provided for performing such purpose.

(3) Statistics on the number of contractors handling classified information of the Department of Defense, and the percentage of such contractors who are subject to foreign ownership, control, or influence.

(4) Statistics on the number of violations identified, enforcement actions taken, and the percentage of such violations occurring at facilities of contractors subject to foreign ownership, control, or influence.

(5) An assessment of whether major contractors implementing the program have adequate enforcement programs and have trained their employees adequately in the requirements of the program.

(6) Trend data on attempts to compromise classified information disclosed to contractors of the Department of Defense to the extent that such data are available.

(Added Pub. L. 110-417, [div. A], title VIII, § 845(a)(1), Oct. 14, 2008, 122 Stat. 4541, § 438; renumbered § 428, Pub. L. 111-84, div. A, title X, § 1073(a)(4), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111-383, div. A, title X, § 1075(b)(11), Jan. 7, 2011, 124 Stat. 4369.)

REFERENCES IN TEXT

Executive Order 12829, referred to in subsec. (b), is set out as a note under section 435 of Title 50, War and National Defense.

AMENDMENTS

2011—Subsec. (f). Pub. L. 111-383 struck out “, United States Code,” after “title 31”.

2009—Pub. L. 111-84 renumbered section 438 of this title as this section.

REQUIREMENT FOR ENTITIES WITH FACILITY CLEARANCES THAT ARE NOT UNDER FOREIGN OWNERSHIP CONTROL OR INFLUENCE MITIGATION

Pub. L. 111-383, div. A, title VIII, § 845, Jan. 7, 2011, 124 Stat. 4285, provided that:

“(a) REQUIREMENT.—The Secretary of Defense shall develop a plan to ensure that covered entities employ and maintain policies and procedures that meet requirements under the national industrial security program. In developing the plan, the Secretary shall consider whether or not covered entities, or any category of covered entities, should be required to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

“(b) COVERED ENTITY.—A covered entity under this section is an entity—

“(1) to which the Department of Defense has granted a facility clearance; and

“(2) that is not subject to foreign ownership control or influence mitigation measures.

“(c) GUIDANCE.—The Secretary of Defense shall issue guidance, including appropriate compliance mechanisms, to implement the requirement in subsection (a). To the extent determined appropriate by the Secretary, the guidance shall require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

“(d) REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary shall submit to the Committees on Armed Serv-

ices of the Senate and the House of Representatives a report on the plan developed pursuant to subsection (a) and the guidance issued pursuant to subsection (c). The report shall specifically address the rationale for the Secretary's decision on whether or not to require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures."

#### SUBMISSION OF FIRST BIENNIAL REPORT

Pub. L. 110-417, [div. A], title VIII, §845(b), Oct. 14, 2008, 122 Stat. 4542, provided that: "Notwithstanding the deadline in subsection (f) of section 438 [now 428] of title 10, United States Code, as added by this section, the first biennial report submitted after the date of the enactment of this Act [Oct. 14, 2008] pursuant to such subsection shall be submitted not later than September 1, 2009, and shall address the period from the date of the enactment of this Act to the issuance of such report."

### § 429. Appropriations for Defense intelligence elements; accounts for transfers; transfer authority

(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.—The Secretary of Defense may transfer appropriations of the Department of Defense which are available for the activities of Defense intelligence elements to an account or accounts established for receipt of such transfers. Each such account may also receive transfers from the Director of National Intelligence if made pursuant to Section<sup>1</sup> 102A of the National Security Act of 1947 (50 U.S.C. 403-1), and transfers and reimbursements arising from transactions, as authorized by law, between a Defense intelligence element and another entity. Appropriation balances in each such account may be transferred back to the account or accounts from which such appropriations originated as appropriation refunds.

(b) RECORDATION OF TRANSFERS.—Transfers made pursuant to subsection (a) shall be recorded as expenditure transfers.

(c) AVAILABILITY OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the same limitations provided in the act making the appropriation.

(d) OBLIGATION AND EXPENDITURE OF FUNDS.—Unless otherwise specifically authorized by law, funds transferred pursuant to subsection (a) shall only be obligated and expended in accordance with chapter 15 of title 31 and all other applicable provisions of law.

(e) DEFENSE INTELLIGENCE ELEMENT DEFINED.—In this section, the term "Defense intelligence element" means any of the Department of Defense agencies, offices, and elements included within the definition of "intelligence community" under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(Added Pub. L. 112-87, title IV, §433(a), Jan. 3, 2012, 125 Stat. 1894.)

<sup>1</sup> So in original. Probably should not be capitalized.

## SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

Sec.	
431.	Authority to engage in commercial activities as security for intelligence collection activities.
432.	Use, disposition, and auditing of funds.
433.	Relationship with other Federal laws.
434.	Reservation of defenses and immunities.
435.	Limitations.
436.	Regulations.
437.	Congressional oversight.

#### AMENDMENTS

1992—Pub. L. 102-484, div. A, title X, §1052(1), Oct. 23, 1992, 106 Stat. 2499, inserted "Sec." above item "431".

1991—Pub. L. 102-88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 437, added subchapter heading and analysis of sections.

### § 431. Authority to engage in commercial activities as security for intelligence collection activities

(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 2015.

(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

(1) be coordinated with, and (where appropriate) be supported by, the Director of the Central Intelligence Agency; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) DEFINITIONS.—In this subchapter:

(1) The term "commercial activities" means activities that are conducted in a manner consistent with prevailing commercial practices and includes—

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

(D) acquiring licenses, registrations, permits, and insurance; and

(E) establishing corporations, partnerships, and other legal entities.

(2) The term "intelligence collection activities" means the collection of foreign intelligence and counterintelligence information.

(Added Pub. L. 102-88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 437; amended Pub. L. 104-93, title V, §503, Jan. 6, 1996, 109 Stat. 973; Pub. L. 105-272, title V, §501, Oct. 20, 1998, 112 Stat. 2404; Pub. L. 106-398, §1 [[div. A], title X, §1077], Oct. 30, 2000, 114 Stat. 1654, 1654A-282; Pub. L. 107-314, div. A, title X, §1053, Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108-375, div. A, title IX, §921, Oct. 28, 2004, 118 Stat. 2029; Pub. L. 109-364, div. A, title IX, §931,

Oct. 17, 2006, 120 Stat. 2362; Pub. L. 110-181, div. A, title IX, §931(b)(1), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, §932(a)(7), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 111-383, div. A, title IX, §921, Jan. 7, 2011, 124 Stat. 4330.)

#### AMENDMENTS

2011—Subsec. (a). Pub. L. 111-383 substituted “December 31, 2015” for “December 31, 2010”.

2009—Subsec. (b)(1). Pub. L. 111-84 repealed Pub. L. 110-417, §932(a)(7). See 2008 Amendment note below.

2008—Subsec. (b)(1). Pub. L. 110-417, §932(a)(7), which directed the amendment of subsec. (b)(1) by substituting “Director of National Intelligence” for “Director of Central Intelligence”, was repealed by Pub. L. 111-84.

Pub. L. 110-181 substituted “Director of the Central Intelligence Agency” for “Director of Central Intelligence”.

2006—Subsec. (a). Pub. L. 109-364 substituted “2010” for “2006”.

2004—Subsec. (a). Pub. L. 108-375 substituted “2006” for “2004”.

2002—Subsec. (a). Pub. L. 107-314 substituted “2004” for “2002”.

2000—Subsec. (a). Pub. L. 106-398 substituted “2002” for “2000”.

1998—Subsec. (a). Pub. L. 105-272 substituted “2000” for “1998”.

1996—Subsec. (a). Pub. L. 104-93 substituted “1998” for “1995”.

#### 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.

#### EFFECTIVE DATE

Section 504(b) of Pub. L. 102-88 provided that: “The Secretary of Defense may not authorize any activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

- “(1) the end of the 90-day period beginning on the date of the enactment of this Act [Aug. 14, 1991]; or
- “(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).”

### § 432. Use, disposition, and auditing of funds

(a) **USE OF FUNDS.**—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

(b) **AUDITS.**—(1) The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. The results of all such audits shall be promptly reported to the intelligence committees (as defined in section 437(d)<sup>1</sup> of this title).

<sup>1</sup> See References in Text note below.

(Added Pub. L. 102-88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 438.)

#### REFERENCES IN TEXT

Section 437(d) of this title, referred to in subsec. (b)(2), was struck out by Pub. L. 107-306, title VIII, §811(b)(4)(A)(ii), Nov. 27, 2002, 116 Stat. 2423.

### § 433. Relationship with other Federal laws

(a) **IN GENERAL.**—Except as provided by subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

(b) **AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.**—(1) If the Secretary of Defense determines, in connection with a commercial activity authorized pursuant to section 431 of this title, that compliance with certain Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence activity, the Secretary may, to the extent necessary to prevent such compromise, waive compliance with such laws or regulations.

(2) Any determination and waiver by the Secretary under paragraph (1) shall be made in writing and shall include a specification of the laws and regulations for which compliance by the commercial activity concerned is not required consistent with this section.

(3) The authority of the Secretary under paragraph (1) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, or a Secretary of a military department.

(c) **FEDERAL LAWS AND REGULATIONS.**—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are only those Federal laws and regulations pertaining to the following:

- (1) The receipt and use of appropriated and nonappropriated funds.
- (2) The acquisition or management of property or services.
- (3) Information disclosure, retention, and management.
- (4) The employment of personnel.
- (5) Payments for travel and housing.
- (6) The establishment of legal entities or government instrumentalities.
- (7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

(Added Pub. L. 102-88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 438.)

### § 434. Reservation of defenses and immunities

The submission to judicial proceedings in a State or other legal jurisdiction, in connection with a commercial activity undertaken pursuant to this subchapter, shall not constitute a waiver of the defenses and immunities of the United States.

(Added Pub. L. 102-88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

### § 435. Limitations

(a) **LAWFUL ACTIVITIES.**—Nothing in this subchapter authorizes the conduct of any intel-

ligence activity that is not otherwise authorized by law or Executive order.

(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

(c) PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

(d) NOTICE TO UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

(2) In this subsection, the term “United States person” means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

§ 436. Regulations

The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

- (1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;
- (2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;
- (3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to section 433(b) of this title, or to approve the establishment or conduct of commercial activities pursuant to this subchapter;
- (4) designate a single office within the Defense Intelligence Agency to be responsible for the management and supervision of all activities authorized under this subchapter;
- (5) require that each commercial activity proposed to be authorized under this subchapter be subject to appropriate legal review before the activity is authorized; and
- (6) provide for appropriate internal audit controls and oversight for such activities.

(Added Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

§ 437. Congressional oversight

(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

(b) CURRENT INFORMATION.—Consistent with title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter.

(Added Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 440; amended Pub. L. 107-306, title VIII, § 811(b)(4)(A), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108-136, div. A, title X, § 1031(a)(7), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 108-375, div. A, title X, § 1084(d)(3), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112-81, div. A, title X, § 1061(5), Dec. 31, 2011, 125 Stat. 1583.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (b), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§ 413 et seq.) of chapter 15 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50 and Tables.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112-81 struck out subsec. (c) which related to submission of an annual report on certain authorized commercial activities.

2004—Subsec. (c). Pub. L. 108-375 inserted “(50 U.S.C. 415b)” after “National Security Act of 1947”.

2003—Subsec. (b). Pub. L. 108-136, § 1031(a)(7)(A), struck out at end “The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter.”

Subsec. (c). Pub. L. 108-136, § 1031(a)(7)(B), substituted “report the following;” for “report—” in introductory provisions, “A” for “a” in pars. (1) to (3), a period for the semicolon at end of par. (1) and for “; and” at end of par. (2), and added par. (4).

2002—Subsec. (c). Pub. L. 107-306, § 811(b)(4)(A)(i), in introductory provisions, substituted “Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))” for “Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress”.

Subsec. (d). Pub. L. 107-306, § 811(b)(4)(A)(ii), struck out heading and text of subsec. (d). Text read as follows: “In this section, the term ‘intelligence committees’ means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.”

CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

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PRIOR PROVISIONS

A prior chapter 22 was renumbered chapter 23 of this title.

AMENDMENTS

2003—Pub. L. 108-136, div. A, title IX, § 921(d)(1), Nov. 24, 2003, 117 Stat. 1568, substituted “NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY” FOR “NATIONAL IMAGERY AND MAPPING AGENCY” in chapter heading.