1946, ch. 142, 60 Stat. 98, related to instructions for marking ballots.

Section 327, act Sept. 16, 1942, ch. 561, title II, § 207, as added Apr. 1, 1944, ch. 150, 58 Stat. 139; amended Apr. 19, 1946, ch. 142, 60 Stat. 99, related to extension of State's time limits.

Section 328, act Sept. 16, 1942, ch. 561, title II, § 208, as added Apr. 19, 1946, ch. 142, 60 Stat. 99, provided for notification of forthcoming elections by secretaries of states.

Section 329, act Sept. 16, 1942, ch. 561, title II, § 209, as added Apr. 19, 1946, ch. 142, 60 Stat. 99; amended Sept. 29, 1950, ch. 1111, 64 Stat. 1082, provided for cooperation with States, printing and transmitting of post cards, and content of post cards.

Section 330, act Sept. 16, 1942, ch. 561, title II, § 210, as added Apr. 19, 1946, ch. 142, 60 Stat. 101; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, related to transmission of post cards.

Section 331, act Sept. 16, 1942, ch. 561, title II, § 211, as added Apr. 19, 1946, ch. 142, 60 Stat. 101; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501, related to distribution of information.

A prior section 331, act Sept. 16, 1942, ch. 561, title III, § 301, as added Apr. 1, 1944, ch. 150, 58 Stat. 140, related to establishment of United States War Ballot Commission and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

ADDITIONAL REPEAL

Sections 321 to 331 were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

§§ 332 to 340. Repealed. Apr. 19, 1946, ch. 142, 60 Stat. 96

Section 332, act Sept. 16, 1942, ch. 561, title III, § 302, as added Apr. 1, 1944, ch. 150, 58 Stat. 140, related to persons subject to this subchapter.

Section 333, act Sept. 16, 1942, ch. 561, title III, § 303, as added Apr. 1, 1944, ch. 150, 58 Stat. 141, related to Federal war ballots.

Section 334, act Sept. 16, 1942, ch. 561, title III, § 304, as added Apr. 1, 1944, ch. 150, 58 Stat. 143, related to administration of oaths.

Section 335, act Sept. 16, 1942, ch. 561, title III, § 305, as added Apr. 1, 1944, ch. 150, 58 Stat. 143, related to administration of this subchapter.

Section 336, act Sept. 16, 1942, ch. 561, title III, § 306, as added Apr. 1, 1944, ch. 150, 58 Stat. 144, related to lists of candidates.

Section 337, act Sept. 16, 1942, ch. 561, title III, § 307, as added Apr. 1, 1944, ch. 150, 58 Stat. 144, related to distribution and collection of ballots.

Section 338, act Sept. 16, 1942, ch. 561, title III, § 308, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to merchant marine ballots.

Section 339, act Sept. 16, 1942, ch. 561, title III, § 309, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to transmission of ballots.

Section 340, act Sept. 16, 1942, ch. 561, title III, § 310, as added Apr. 1, 1944, ch. 150, 58 Stat. 145, related to reports on balloting.

§ 341. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section, act Sept. 16, 1942, ch. 561, title III, § 301, as added Apr. 19, 1946, ch. 142, 60 Stat. 101, provided for prevention of fraud, coercion, and undue influence; free discussion, and acts done in good faith.

A prior section 341, act Sept. 16, 1942, ch. 561, title III, § 311, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to validity of ballots and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

ADDITIONAL REPEAL

Section was also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

§ 342. Repealed. May 24, 1949, ch. 139, § 142, 63 Stat. 109

Section, act Sept. 16, 1942, ch. 561, title III, § 302, as added Apr. 19, 1946, ch. 142, 60 Stat. 102, related to prohibition against taking of polls. See section 596 of Title 18, Crimes and Criminal Procedure.

A prior section 342, act Sept. 16, 1942, ch. 561, title III, § 312, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, which provided for safeguards and secrecy of ballots and prevention of fraud and coercion as to voting, was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 102.

§§ 343 to 347. Repealed. Apr. 19, 1946, ch. 142, 60 Stat. 96

Section 343, act Sept. 16, 1942, ch. 561, title III, § 313, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to penalties under sections 341 to 347 of this title.

Section 344, act Sept. 16, 1942, ch. 561, title III, § 314, as added Apr. 1, 1944, ch. 150, 58 Stat. 146, related to prohibition on taking polls. See section 596 of Title 18, Crimes and Criminal Procedure.

Section 344 was also repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

Section 345, act Sept. 16, 1942, ch. 561, title III, § 315, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to certain State officials.

Section 346, act Sept. 16, 1942, ch. 561, title III, § 316, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to agencies acting for the Secretary of State.

Section 347, act Sept. 16, 1942, ch. 561, title III, § 317, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to construction of chapter.

§§ 351 to 355. Repealed. Aug. 9, 1955, ch. 656, title III, § 307, 69 Stat. 589

Section 351, act Sept. 16, 1942, ch. 561, title IV, § 401, as added Apr. 19, 1946, ch. 142, 60 Stat. 102, defined terms for purposes of this chapter.

A prior section 351, act Sept. 16, 1942, ch. 561, title IV, § 401, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, authorized appropriations for purposes of this chapter and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 352, act Sept. 16, 1942, ch. 561, title IV, § 402, as added Apr. 19, 1946, ch. 142, 60 Stat. 102; amended Sept. 29, 1950, ch. 1112, § 2, 64 Stat. 1083, related to free postage.

A prior section 352, act Sept. 16, 1942, ch. 561, title IV, § 402, as added Apr. 1, 1944, ch. 150, 58 Stat. 147, related to free postage and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 353, act Sept. 16, 1942, ch. 561, title IV, § 403, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to administration of this chapter.

A prior section 353, act Sept. 16, 1942, ch. 561, title IV, § 403, as added Apr. 1, 1944, ch. 150, 58 Stat. 148, defined terms for purposes of this chapter and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 354, act Sept. 16, 1942, ch. 561, title IV, § 404, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to separability of provisions.

A prior section 354, act Sept. 16, 1942, ch. 561, title IV, § 404, as added Apr. 1, 1944, ch. 150, 58 Stat. 148, related to separability of provisions and was repealed by act Apr. 19, 1946, ch. 142, 60 Stat. 96.

Section 355, act Sept. 16, 1942, ch. 561, title IV, § 405, as added Apr. 19, 1946, ch. 142, 60 Stat. 103, related to construction of this chapter.

ADDITIONAL REPEAL

Sections 351 to 355 were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641.

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§ 401. Congressional declaration of purpose

In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

(July 26, 1947, ch. 343, § 2, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 2, 63 Stat. 579; Pub. L. 85–599, § 2, Aug. 6, 1958, 72 Stat. 514.)

REFERENCES IN TEXT

This legislation, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1958—Pub. L. 85–599 amended section generally, and, among other changes, provided that each military department shall be separately organized, instead of separately administered, under its own Secretary and shall

function under the direction, authority, and control of the Secretary of Defense, and inserted provisions relating to establishment of unified or specified combatant commands and for elimination of unnecessary duplication.

1949—Act Aug. 10, 1949, provided that the military departments shall be separately administered but be under the direction of the Secretary of Defense, and that there shall not be a single Chief of Staff over the armed forces nor an armed forces general staff.

CHANGE OF NAME

Pub. L. 108–458, title I, §1081, Dec. 17, 2004, 118 Stat. 3696, provided that:

''(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF INTELLIGENCE COMMUNITY.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of National Intelligence.

''(b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF CIA.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

''(c) COMMUNITY MANAGEMENT STAFF.—Any reference to the Community Management Staff in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of the Office of the Director of National Intelligence.''

EFFECTIVE DATE OF 2004 AMENDMENTS; TRANSITION PROVISIONS

Pub. L. 108–458, title I, subtitle H, Dec. 17, 2004, 118 Stat. 3697, as amended by Pub. L. 109–13, div. A, title I, §1009, May 11, 2005, 119 Stat. 244, provided that:

''SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF.

''(a) TRANSFER.—There shall be transferred to the Office of the Director of National Intelligence such staff of the Community Management Staff as of the date of the enactment of this Act [Dec. 17, 2004] as the Director of National Intelligence determines to be appropriate, including all functions and activities discharged by the Community Management Staff as of that date.

''(b) ADMINISTRATION.—The Director of National Intelligence shall administer the Community Management Staff after the date of the enactment of this Act [Dec. 17, 2004] as a component of the Office of the Director of National Intelligence under section 103 of the National Security Act of 1947 [50 U.S.C. 403–3], as amended by section 1011(a) of this Act.

''SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

''(a) TRANSFER.—There shall be transferred to the National Counterterrorism Center the Terrorist Threat Integration Center (TTIC) or its successor entity, including all functions and activities discharged by the Terrorist Threat Integration Center or its successor entity as of the date of the enactment of this Act [Dec. 17, 2004].

''(b) ADMINISTRATION.—The Director of the National Counterterrorism Center shall administer the Terrorist Threat Integration Center after the date of the enactment of this Act [Dec. 17, 2004] as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 119(i) of the National Security Act of 1947 [50 U.S.C. 404*o*(i)], as added by section 1021(a) [1021] of this Act.

''SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

''(a) TERMINATION.—The positions referred to in subsection (b) are hereby abolished.

''(b) COVERED POSITIONS.—The positions referred to in this subsection are as follows:

''(1) The Assistant Director of Central Intelligence for Collection.

''(2) The Assistant Director of Central Intelligence for Analysis and Production.

''(3) The Assistant Director of Central Intelligence for Administration.

''SEC. 1094. IMPLEMENTATION PLAN.

''The President shall transmit to Congress a plan for the implementation of this title [see Short Title of 2004 Amendment note below] and the amendments made by this title. The plan shall address, at a minimum, the following:

''(1) The transfer of personnel, assets, and obligations to the Director of National Intelligence pursuant to this title.

''(2) Any consolidation, reorganization, or streamlining of activities transferred to the Director of National Intelligence pursuant to this title.

''(3) The establishment of offices within the Office of the Director of National Intelligence to implement the duties and responsibilities of the Director of National Intelligence as described in this title.

''(4) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations to be transferred to the Director of National Intelligence.

''(5) Recommendations for additional legislative or administrative action as the President considers appropriate.

''SEC. 1095. DIRECTOR OF NATIONAL INTELLIGENCE REPORT ON IMPLEMENTATION OF INTELLIGENCE COMMUNITY REFORM.

''(a) REPORT.—Not later than one year after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see below], the Director of National Intelligence shall submit to the congressional intelligence committees a report on the progress made in the implementation of this title [see Short Title of 2004 Amendment note below], including the amendments made by this title. The report shall include a comprehensive description of the progress made, and may include such recommendations for additional legislative or administrative action as the Director considers appropriate.

''(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means—

''(1) the Select Committee on Intelligence of the Senate; and

''(2) the Permanent Select Committee on Intelligence of the House of Representatives.

''SEC. 1096. TRANSITIONAL AUTHORITIES.

''(a) IN GENERAL.—Upon the request of the Director of National Intelligence, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to the Director of National Intelligence.

''(b) TRANSFER OF PERSONNEL.—In addition to any other authorities available under law for such purposes, in the fiscal years 2005 and 2006, the Director of National Intelligence—

''(1) is authorized within the Office of the Director of National Intelligence the total of 500 new personnel positions; and

''(2) with the approval of the Director of the Office of Management and Budget, may detail not more than 150 personnel funded within the National Intelligence Program to the Office of the Director of National Intelligence for a period of not more than 2 years.

''SEC. 1097. EFFECTIVE DATES.

''(a) IN GENERAL.—Except as otherwise expressly provided in this Act [see Short Title of 2004 Amendment note below], this title [see Short Title of 2004 Amendment note below] and the amendments made by this title shall take effect not later than six months after

the date of the enactment of this Act [Dec. 17, 2004] [For determination by the President that certain sections of title I of Pub. L. 108–458 take effect earlier than six months after the date of enactment, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note below.].

''(b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later than 60 days after the date of the appointment of the first Director of National Intelligence, the Director of National Intelligence shall first appoint individuals to positions within the Office of the Director of National Intelligence.

''(B) Subparagraph (A) shall not apply with respect to the Principal Deputy Director of National Intelligence.

''(2) Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see above], the President shall transmit to Congress the implementation plan required by section 1094.

''(3) Not later than one year after the date of the enactment of this Act [Dec. 17, 2004], the Director of National Intelligence shall prescribe regulations, policies, procedures, standards, and guidelines required under section 102A of the National Security Act of 1947 [50 U.S.C. 403–1], as amended by section 1011(a) of this Act.''

[Functions of President under section 1094 of Pub. L. 108–458, set out in a note above, assigned to the Director of National Intelligence by section 3 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of Title 3, The President.]

EFFECTIVE DATE

Section 310 of act July 26, 1947, provided:

''(a) The first sentence of section 202(a) [section 171a of former Title 5, Executive Departments and Government Officers and Employees] and sections 1, 2, 307, 308, 309, and 310 [section 171 note of former Title 5, section 361 of this title, and sections 171m and 171n of former Title 5] shall take effect immediately upon the enactment of this Act [July 26, 1947].

''(b) Except as provided in subsection (a), the provisions of this Act [sections 171 to 171*l*, 181–1, 181–2, 411a, 411b, 626 to 626d of former Title 5, section 24 of Title 3, The President, and sections 401 to 405 of this title] shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act [July 26, 1947].''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–458, § 1(a), Dec. 17, 2004, 118 Stat. 3638, provided that: ''This Act [see Tables for classification] may be cited as the 'Intelligence Reform and Terrorism Prevention Act of 2004'.''

Pub. L. 108–458, title I, § 1001, Dec. 17, 2004, 118 Stat. 3643, provided that: ''This title [enacting sections 402–1, 403, 403–1, 403–1a to 403–1c, 403–3, 403–3a to 403–3f, 403–4, 403–4a, 403–4b, 404*o*, 404*o*–1, 404*o*–2, 441g–1, and 441g–2 of this title, section 8K of the Inspector General Act set out in the Appendix to Title 5, Government Organization and Employees, and section 485 of Title 6, Domestic Security, amending sections 401a, 402, 402a to 402c, 403–5, 403–5b, 403–6, 403a, 403b, 403g, 403n, 403p, 403q, 403t, 403u, 404e, 404g to 404i, 404i–1, 404j to 404*l*, 404n, 404n–1, 404n–2, 405, 413, 413a, 413b, 414, 415a, 415a–1, 423, 431, 432, 432a, 432b, 441g, 442a, 1802 to 1805, 1822 to 1824, 1842, 2001, and 2011 of this title, sections 5312, 5313, 5315, 7323, and 7342 of Title 5, section 105 of the Ethics in Government Act set out in the Appendix to Title 5, section 9 of the Classified Information Procedures Act set out in the Appendix to Title 18, Crimes and Criminal Procedure, and section 113 of Title 40, Public Buildings, Property, and Works, repealing sections 403, 403–1, 403–3, 403–4, and 404f of this title, enacting provisions set out as notes under this section, sections 403, 403–1, 403–1a, and 403–4b of this title, and section 601 of Title 5, and amending provisions set out as notes under sections 403, 403–3, 403–4, 435, and 441g of this title, section 4124 of Title 18, and section 519 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'National Security Intelligence Reform Act of 2004'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–306, title IX, § 901(a), Nov. 27, 2002, 116 Stat. 2432, provided that: ''This title [enacting sections 402b and 402c of this title, amending section 402a of this title, and enacting provisions set out as a note under section 402b of this title] may be cited as the 'Counterintelligence Enhancement Act of 2002'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–293, title VIII, § 801, Oct. 11, 1996, 110 Stat. 3474, provided that: ''This title [enacting sections 403, 403–1, 403–5a, and 403t of this title, amending sections 402, 403, 403–3 to 403–6, and 404d of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, repealing former section 403 of this title, and enacting provisions set out as notes under sections 403–3, 403–4, and 403t of this title] may be cited as the 'Intelligence Renewal and Reform Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–359, title VIII, § 801, Oct. 14, 1994, 108 Stat. 3434, provided that: ''This title [enacting sections 402a, 435 to 438, and 1821 to 1829 of this title, section 2170b of the Appendix to this title, section 1599 [now 1611] of Title 10, Armed Forces, and section 1924 of Title 18, Crimes and Criminal Procedure, amending section 783 of this title, section 2170 of the Appendix to this title, section 8312 of Title 5, Government Organization and Employees, section 1604 of Title 10, and sections 793, 794, 798, 3071, and 3077 of Title 18, enacting provisions set out as notes under sections 435 and 1821 of this title, and amending provisions set out as notes under sections 402 and 1801 of this title] may be cited as the 'Counterintelligence and Security Enhancements Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–496, title VII, § 701, Oct. 24, 1992, 106 Stat. 3188, provided that: ''This title [enacting sections 401a and 403–3 to 403–6 of this title, amending sections 402, 403, 404, and 404a of this title, and repealing section 403–1 of this title] may be cited as the 'Intelligence Organization Act of 1992'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–477, § 1, Oct. 15, 1984, 98 Stat. 2209, provided: ''That this Act [enacting sections 431 and 432 of this title, amending section 552a of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 431 and 432 of this title] may be cited as the 'Central Intelligence Agency Information Act'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–200, § 1, June 23, 1982, 96 Stat. 122, provided: ''That this Act [enacting subchapter IV of this chapter] may be cited as the 'Intelligence Identities Protection Act of 1982'.''

SHORT TITLE OF 1949 AMENDMENT

Section 1 of act Aug. 10, 1949, provided that: ''This Act [enacting sections 408 and 412 of this title and sections 171–1, 171t, 172, 172a to 172d, and 172f to 172j of former Title 5, Executive Departments and Government Officers and Employees, amending this section, sections 151, 402, 403d, 405, 410, 459, 481, and 494 of this title, sections 171, 171a, 171b to 171d, 171e to 171j, 171n, 171r, 172e, 411b, and 626c of former Title 5, section 1748b of Title 12, Banks and Banking, section 1517 of Title 15, Commerce and Trade, sections 474, 481 to 484, and 487 of former Title 40, Public Buildings, Property, and Works, section 364a of Title 43, Public Lands, sections 1156 and

1157 of former Title 49, Transportation, and section 1193 of the Appendix to this title, and enacting provisions set out as notes under this section and sections 171 and 171c of former Title 5] may be cited as the 'National Security Act Amendments of 1949'.''

SHORT TITLE

Section 1 of act July 26, 1947, provided: ''That this Act [enacting this section, sections 401a to 403, 404, 405, and 408 to 412 of this title, and sections 171, 171–1, 171–2, 171a, 171b to 171d, 171e to 171j, 171k to 171m, 171n, 172, 172a to 172d, 172f to 172j, 181–1, 181–2, 411a, 411b, 626, 626a to 626c, and 626d of former Title 5, Executive Department and Government Officers and Employees, amending sections 1, 11, and 172e of former Title 5, section 1517 of Title 15, Commerce and Trade, and section 72 of former Title 31, Money and Finance, and enacting provisions set out as notes under this section and section 135 of Title 10, Armed Forces] may be cited as the 'National Security Act of 1947'.''

Sections of National Security Act of 1947, which were classified to former Title 5, were repealed and restated in Title 10, Armed Forces, except as noted, as follows:

Section of former Title 5	*Section of Title 10*
171	131, 133.
171a(a), (b)	133.
171a(c)	125, 136, 141, 3010, 3012, 5011, 5031, 8010, 8012.
171a(d)	133.
171a(e)	132.
171a(f)	133.
171a(g)–(i)	[Omitted].
171a(j)	124.
171c	134, 135, 136, 718, 2358.
171c–1, 171c–2	[Repealed].
171d	1580.
171e	171.
171f	141, 142.
171g	143.
171h	2201.
171i	2351.
171j	173.
172	136.
172a	3014, 5061, 8014.
172b	2203.
172c	2204.
172d	2208.
172e	2209.
172f	126.
172g	2205.
172h	2206.
172i	2701.
181–1	101, 3011, 3012, 3062, T. 50 §409.
181–2	3012.
411a(a)	101; T. 50 §409.
411a(b)	5012.
411a(c)	5013, 5402.
626(a)	8012.
626(b)	[Repealed].
626(c)	101; T. 50 §409.
626(d)	8013.
626(e)	8012.
626(f)	8033.
626(g)	8011.
626a	8012.
626b	8013.
626c	743, 8062.

SAVINGS PROVISIONS

Pub. L. 108–487, title VIII, §803, Dec. 23, 2004, 118 Stat. 3962, provided that:

''(a) HEAD OF INTELLIGENCE COMMUNITY.—(1) During the period beginning on the date of the enactment of this Act [Dec. 23, 2004] and ending on the date of the appointment of the Director of National Intelligence [Apr. 21, 2005] under section 102 of the National Security Act of 1947, as amended by section 1011(a) of the National Security Intelligence Reform Act of 2004 [50 U.S.C. 403], the Director of Central Intelligence may, acting as the head of the intelligence community, discharge the functions and authorities provided in this Act, and the amendments made by this Act [see Effective Date of 2004 Amendments note set out under section 2656f of Title 22, Foreign Relations and Intercourse], to the Director of National Intelligence.

''(2) During the period referred to in paragraph (1) any reference in this Act or the amendments made by this Act to the Director of National Intelligence shall be considered to be a reference to the Director of Central Intelligence, as the head of the intelligence community.

''(3) Upon the appointment of an individual as Director of National Intelligence under section 102 of the National Security Act of 1947, as so amended, any reference in this Act, or in the classified annex to accompany this Act, to the Director of Central Intelligence as head of the intelligence community shall be deemed to be a reference to the Director of National Intelligence.

''(b) HEAD OF CENTRAL INTELLIGENCE AGENCY.—(1) During the period beginning on the date of the enactment of this Act [Dec. 23, 2004] and ending on the date of the appointment of the Director of the Central Intelligence Agency under section 104A of the National Security Act of 1947, as amended by section 1011(a) of the National Security Intelligence Reform Act of 2004 [50 U.S.C. 403–4a], the Director of Central Intelligence may, acting as the head of the Central Intelligence Agency, discharge the functions and authorities provided in this Act, and the amendments made by this Act, to the Director of the Central Intelligence Agency.

''(2) Upon the appointment of an individual as Director of the Central Intelligence Agency under section 104A of the National Security Act of 1947, as so amended, any reference in this Act, or in the classified annex to accompany this Act, to the Director of Central Intelligence as head of the Central Intelligence Agency shall be deemed to be a reference to the Director of the Central Intelligence Agency.''

Section 12(g) of act Aug. 10, 1949, provided: ''All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act [see Short Title of 1949 Amendment note above], have the same effect as if this Act had not been enacted; but, after the effective date of this Act [Aug. 10, 1949], any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force.''

SEPARABILITY

Pub. L. 108–458, title I, §1103, Dec. 17, 2004, 118 Stat. 3700, provided that: ''If any provision of this Act [see Short Title of 2004 Amendment note above], or an amendment made by this Act, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other those to which such provision is held invalid shall not be affected thereby.''

Section 309 of act July 26, 1947, provided: ''If any provision of this Act [see Short Title note above] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.''

[Section 310(a) of act July 26, 1947, set out as an Effective Date note above, provided that section 309 of act July 26, 1947, is effective July 26, 1947.]

CONSTRUCTION OF REFERENCES TO DIRECTOR OF CENTRAL INTELLIGENCE

Pub. L. 108–487, title VIII, § 802, Dec. 23, 2004, 118 Stat. 3962, provided that: ''Except as otherwise specifically provided or otherwise provided by context, any reference in this Act [see Effective Date of 2004 Amendments note set out under section 2656f of Title 22, Foreign Relations and Intercourse], or in the classified annex to accompany this Act, to the Director of Central Intelligence shall be deemed to be a reference to the Director of Central Intelligence as head of the intelligence community.''

CHARTER FOR THE NATIONAL RECONNAISSANCE OFFICE

Pub. L. 111–84, div. A, title X, § 1035, Oct. 28, 2009, 123 Stat. 2450, provided that: ''Not later than February 1, 2010, the Director of National Intelligence and the Secretary of Defense shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a revised charter for the National Reconnaissance Office (in this section referred to as the 'NRO'). The charter shall include the following:

''(1) The organizational and governance structure of the NRO.

''(2) The role of the NRO in the development and generation of requirements and acquisition.

''(3) The scope of the capabilities of the NRO.

''(4) The roles and responsibilities of the NRO and the relationship of the NRO to other organizations and agencies in the intelligence and defense communities.''

INCORPORATION OF REPORTING REQUIREMENTS

Pub. L. 108–177, title I, § 106, Dec. 13, 2003, 117 Stat. 2604, provided that:

''(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill H.R. 2417 of the One Hundred Eighth Congress [enacted as Pub. L. 108–177], or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

''(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means—

''(1) the Select Committee on Intelligence of the Senate; and

''(2) the Permanent Select Committee on Intelligence of the House of Representatives.''

Similar provisions were contained in Pub. L. 107–306, title I, § 108, Nov. 27, 2002, 116 Stat. 2388.

NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

Pub. L. 107–306, title X, Nov. 27, 2002, 116 Stat. 2437, as amended by Pub. L. 108–177, title III, § 315(a), Dec. 13, 2003, 117 Stat. 2610, established the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community to review the status of research and development programs and activities within the intelligence community, directed the Commission to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on such review not later than Sept. 1, 2004, provided that the Commission was to terminate at the end of the 120-day period beginning on the date on which the final report was transmitted to the congressional intelligence committees, and directed the Director of Central Intelligence and the Secretary of Defense to each submit to the congressional intelligence committees an assessment of the final report not later than 60 days after receipt.

NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE

Pub. L. 106–120, title VII, Dec. 3, 1999, 113 Stat. 1620, established the National Commission for the Review of the National Reconnaissance Office to review the current organization, practices, and authorities of the National Reconnaissance Office, directed the Commission to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on such review not later than Nov. 1, 2000, provided that the Commission would terminate at the end of the 120-day period beginning on the date on which the final report was transmitted to the congressional intelligence committees, and directed the Director of Central Intelligence and the Secretary of Defense to each submit to the congressional intelligence committees an assessment of the final report not later than 60 days after receipt.

COMMISSION ON ROLES AND CAPABILITIES OF UNITED STATES INTELLIGENCE COMMUNITY

Pub. L. 103–359, title IX, Oct. 14, 1994, 108 Stat. 3456, related to establishment, composition, duties, reports, powers, payment of expenses, and termination, not later than Mar. 1, 1996, of the Commission on the Roles and Capabilities of the United States Intelligence Community.

NATIONAL COMMISSION ON DEFENSE AND NATIONAL SECURITY

Pub. L. 101–511, title VIII, § 8104, Nov. 5, 1990, 104 Stat. 1898, as amended by Pub. L. 102–172, title VIII, § 8078, Nov. 26, 1991, 105 Stat. 1189, provided that:

''SECTION 1. This section establishes the National Commission on Defense and National Security.

''SEC. 2. FINDINGS.

''The Congress makes the following findings:

''(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

''(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

''(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

''(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

''(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

''(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

''(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

''SEC. 3. ESTABLISHMENT.

''There is established a commission to be known as [the] National Commission on Defense and National Security (hereinafter in this Act referred to as the 'Commission'). The Commission is established until 30 days following submission of the final report required by section 6 of this section.

''SEC. 4. DUTIES OF COMMISSION.

''(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

''(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

''(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

''(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

''(A) the developments in Eastern Europe and the Soviet Union;

''(B) the question of German unification;

''(C) the future of NATO and European economic integration;

''(D) the future of the Pacific Basin; and

''(E) potential instability resulting from regional conflicts or economic problems in the developing world.

''(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

''(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

''(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

''SEC. 5. MEMBERSHIP.

''(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

''(1) Three appointed by the President.

''(2) Three appointed by the Speaker of the House of Representatives.

''(3) One appointed by the minority leader of the House of Representatives.

''(4) Two appointed by the majority leader of the Senate.

''(5) One appointed by the minority leader of the Senate.

''(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

''(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(d) BASIC PAY.—Members of the Commission shall serve without pay.

''(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

''(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

''(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

''(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act [Nov. 5, 1990].

''SEC. 6. REPORTS.

''(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

''(b) FINAL REPORT.—The Commission shall transmit to the President and to Congress a final report one year following submission of the initial report under subsection (a).

''(c) CONTENTS OF REPORTS.—The report under subsection (b) shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Such report shall include a comprehensive description and discussion of the matters set forth in section 4.

''(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

''(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

''SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

''(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–18 of the General Schedule.

''(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

''(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

''SEC. 8. POWERS OF COMMISSION

''(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

''(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

''(c) OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Chairman may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.

''(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''SEC. 9. INITIAL FUNDING OF COMMISSION.

''If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.''

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

INTELLIGENCE PRIORITIES AND REORGANIZATION

Pub. L. 101–510, div. A, title IX, § 907, Nov. 5, 1990, 104 Stat. 1622, provided that:

''(a) REVISION OF PRIORITIES AND CONSOLIDATION OF FUNCTIONS.—The Secretary of Defense, together with the Director of Central Intelligence, shall conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) programs and the National Foreign Intelligence Program (NFIP). The Secretary, together with the Director, shall take the following actions with respect to those activities:

''(1) In cases in which redundancy or fragmentation exist, consolidate functions, programs, organizations, and operations to improve the efficiency and effectiveness of the conduct of those intelligence activities or programs.

''(2) Revise intelligence collection and analysis priorities and resource allocations to reflect changes in the international security environment.

''(3) Strengthen joint intelligence functions, operations, and organizations.

''(4) Improve the quality and independence of intelligence support to the weapons acquisition process.

''(5) Improve the responsiveness and utility of national intelligence systems and organizations to the needs of the combatant commanders.

''(b) PERSONNEL REDUCTIONS.—(1) The number of personnel assigned or detailed to the National Foreign Intelligence Program and related Tactical Intelligence and Related Activities programs shall be reduced by not less than 5 percent of the number of such personnel described in paragraph (2) during each of fiscal years 1992 through 1996.

''(2) The number of personnel referred to in paragraph (1) is the number of personnel assigned or detailed to such programs on September 30, 1990.''

FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE

For provisions relating to the exercise of certain authority respecting foreign intelligence electronic surveillance, see Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, set out under section 1802 of this title.

CHANGE OF TITLES OF SECRETARY OF DEFENSE, ET AL.; REAPPOINTMENT

Section 12(f) of act Aug. 10, 1949, provided in part that: ''The titles of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretaries and the Assistant Secretaries of the Departments of the Army, Navy, and Air Force, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, shall not be changed by virtue of this Act [see Short Title of 1949 Amendment note set out above] and the reappointment of the officials holding such titles on the effective date of this Act [Aug. 10, 1949] shall not be required.''

REORGANIZATION PLAN NO. 8 OF 1949

Section 12(i) of act Aug. 10, 1949, provided that: ''Reorganization Plan Numbered 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949 [set out in Appendix to Title 5, Government Organization and Employees] pursuant to the provisions of the Reorganization Act of 1949, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.''

EX. ORD. NO. 10431. NATIONAL SECURITY MEDAL

Ex. Ord. No. 10431, Jan. 19, 1953, 18 F.R. 437, provided:

1. There is hereby established a medal to be known as the National Security Medal with accompanying ribbons and appurtenances. The medal and its appurtenances shall be of appropriate design, approved by the Executive Secretary of the National Security Council.

2. The National Security Medal may be awarded to any person, without regard to nationality, including members of the armed forces of the United States, for distinguished achievement or outstanding contribution on or after July 26, 1947, in the field of intelligence relating to the national security.

3. The decoration established by this order shall be awarded by the President of the United States or, under regulations approved by him, by such person or persons as he may designate.

4. No more than one National Security Medal shall be awarded to any one person, but for subsequent services justifying an award, a suitable device may be awarded to be worn with the Medal.

5. Members of the armed forces of the United States who are awarded the decoration established by this order are authorized to wear the medal and the ribbon symbolic of the award, as may be authorized by uniform regulations approved by the Secretary of Defense.

6. The decoration established by this order may be awarded posthumously.

REGULATIONS GOVERNING THE AWARD OF THE NATIONAL SECURITY MEDAL

Pursuant to Paragraph 2 of Executive Order 10431, the following regulations are hereby issued to govern the award of the National Security Medal:

1. The National Security Medal may be awarded to any person without regard to nationality, including a member of the Armed Forces of the United States, who, on or after 26 July 1947, has made an outstanding contribution to the National intelligence effort. This contribution may consist of either exceptionally meritorious service performed in a position of high responsibility or of an act of valor requiring personal courage of a high degree and complete disregard of personal safety.

2. The National Security Medal with accompanying ribbon and appurtenances, shall be of appropriate design to be approved by the Executive Secretary of the National Security Council.

3. The National Security Medal shall be awarded only by the President or his designee for that purpose.

4. Recommendations may be submitted to the Executive Secretary of the National Security Council by any individual having personal knowledge of the facts of the exceptionally meritorious conduct or act of valor of the candidate in the performance of outstanding services, either as an eyewitness or from the testimony of others who have personal knowledge or were eyewitnesses. Any recommendations shall be accompanied by complete documentation, including where necessary, certificates, affidavits or sworn transcripts of testimony. Each recommendation for an award shall show the exact status, at the time of the rendition of the service on which the recommendation is based, with respect to citizenship, employment, and all other material factors, of the person who is being recommended for the National Security Medal.

5. Each recommendation shall contain a draft of an appropriate citation to accompany the award of the National Security Medal.

EXECUTIVE ORDER NO. 11905

Ex. Ord. No. 11905, Feb. 18, 1976, 41 F.R. 7703, as amended by Ex. Ord. No. 11985, May 13, 1977, 42 F.R. 25487; Ex. Ord. No. 11994, June 1, 1977, 42 F.R. 28869, which related to United States foreign intelligence activities, was superseded by Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, formerly set out below.

EXECUTIVE ORDER NO. 12036

Ex. Ord. No. 12036, Jan. 24, 1978, 43 F.R. 3674, as amended by Ex. Ord. No. 12139, May 23, 1979, 44 F.R. 30311, which related to United States foreign intelligence activities, was revoked by Ex. Ord. No. 12333, §3.6, Dec. 4, 1981, 46 F.R. 59954, prior to Ex. Ord. No. 12333 being amended by Ex. Ord. No. 13470, §4(j), July 30, 2008, 73 F.R. 45341.

EX. ORD. NO. 12333. UNITED STATES INTELLIGENCE ACTIVITIES

Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, as amended by Ex. Ord. No. 13284, §18, Jan. 23, 2003, 68 F.R. 4077; Ex. Ord. No. 13355, §§2, 3, 6, Aug. 27, 2004, 69 F.R. 53593; Ex. Ord. No. 13470, §§1–4, July 30, 2008, 73 F.R. 45325, provided:

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Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including the National Security Act of 1947, as amended (Act) [see Short Title note above], and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

PART 1—GOALS, DIRECTIONS, DUTIES, AND RESPONSIBILITIES WITH RESPECT TO UNITED STATES INTELLIGENCE EFFORTS

1.1 GOALS

The United States intelligence effort shall provide the President, the National Security Council, and the Homeland Security Council with the necessary information on which to base decisions concerning the development and conduct of foreign, defense, and economic policies, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) All means, consistent with applicable Federal law and this order, and with full consideration of the rights of United States persons, shall be used to obtain reliable intelligence information to protect the United States and its interests.

(b) The United States Government has a solemn obligation, and shall continue in the conduct of intelligence activities under this order, to protect fully the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by Federal law.

(c) Intelligence collection under this order should be guided by the need for information to respond to intelligence priorities set by the President.

(d) Special emphasis should be given to detecting and countering:

(1) Espionage and other threats and activities directed by foreign powers or their intelligence services against the United States and its interests;

(2) Threats to the United States and its interests from terrorism; and

(3) Threats to the United States and its interests from the development, possession, proliferation, or use of weapons of mass destruction.

(e) Special emphasis shall be given to the production of timely, accurate, and insightful reports, responsive to decisionmakers in the executive branch, that draw on all appropriate sources of information, including open source information, meet rigorous analytic standards, consider diverse analytic viewpoints, and accurately represent appropriate alternative views.

(f) State, local, and tribal governments are critical partners in securing and defending the United States from terrorism and other threats to the United States and its interests. Our national intelligence effort should take into account the responsibilities and requirements of State, local, and tribal governments and, as appropriate, private sector entities, when undertaking the collection and dissemination of information and intelligence to protect the United States.

(g) All departments and agencies have a responsibility to prepare and to provide intelligence in a manner that allows the full and free exchange of information, consistent with applicable law and presidential guidance.

1.2 THE NATIONAL SECURITY COUNCIL

(a) *Purpose*. The National Security Council (NSC) shall act as the highest ranking executive branch entity that provides support to the President for review of, guidance for, and direction to the conduct of all foreign intelligence, counterintelligence, and covert action, and attendant policies and programs.

(b) *Covert Action and Other Sensitive Intelligence Operations*. The NSC shall consider and submit to the President a policy recommendation, including all dissents, on each proposed covert action and conduct a periodic review of ongoing covert action activities, including an evaluation of the effectiveness and consistency with current national policy of such activities and consistency with applicable legal requirements. The NSC shall perform such other functions related to covert action as the President may direct, but shall not undertake the conduct of covert actions. The NSC shall also review proposals for other sensitive intelligence operations.

1.3 DIRECTOR OF NATIONAL INTELLIGENCE

Subject to the authority, direction, and control of the President, the Director of National Intelligence (Director) shall serve as the head of the Intelligence Community, act as the principal adviser to the President, to the NSC, and to the Homeland Security Council for intelligence matters related to national security, and shall oversee and direct the implementation of the National Intelligence Program and execution of the National Intelligence Program budget. The Director will lead a unified, coordinated, and effective intelligence effort. In addition, the Director shall, in carrying out the duties and responsibilities under this section, take into account the views of the heads of departments containing an element of the Intelligence Community and of the Director of the Central Intelligence Agency.

(a) Except as otherwise directed by the President or prohibited by law, the Director shall have access to all information and intelligence described in section 1.5(a) of this order. For the purpose of access to and sharing of information and intelligence, the Director:

(1) Is hereby assigned the function under section 3(5) of the Act, to determine that intelligence, regardless of the source from which derived and including information gathered within or outside the United States, pertains to more than one United States Government agency; and

(2) Shall develop guidelines for how information or intelligence is provided to or accessed by the Intelligence Community in accordance with section 1.5(a) of

this order, and for how the information or intelligence may be used and shared by the Intelligence Community. All guidelines developed in accordance with this section shall be approved by the Attorney General and, where applicable, shall be consistent with guidelines issued pursuant to section 1016 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458) (IRTPA).

(b) In addition to fulfilling the obligations and responsibilities prescribed by the Act, the Director:

(1) Shall establish objectives, priorities, and guidance for the Intelligence Community to ensure timely and effective collection, processing, analysis, and dissemination of intelligence, of whatever nature and from whatever source derived;

(2) May designate, in consultation with affected heads of departments or Intelligence Community elements, one or more Intelligence Community elements to develop and to maintain services of common concern on behalf of the Intelligence Community if the Director determines such services can be more efficiently or effectively accomplished in a consolidated manner;

(3) Shall oversee and provide advice to the President and the NSC with respect to all ongoing and proposed covert action programs;

(4) In regard to the establishment and conduct of intelligence arrangements and agreements with foreign governments and international organizations:

(A) May enter into intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations;

(B) Shall formulate policies concerning intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations; and

(C) Shall align and synchronize intelligence and counterintelligence foreign relationships among the elements of the Intelligence Community to further United States national security, policy, and intelligence objectives;

(5) Shall participate in the development of procedures approved by the Attorney General governing criminal drug intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(6) Shall establish common security and access standards for managing and handling intelligence systems, information, and products, with special emphasis on facilitating:

(A) The fullest and most prompt access to and dissemination of information and intelligence practicable, assigning the highest priority to detecting, preventing, preempting, and disrupting terrorist threats and activities against the United States, its interests, and allies; and

(B) The establishment of standards for an interoperable information sharing enterprise that facilitates the sharing of intelligence information among elements of the Intelligence Community;

(7) Shall ensure that appropriate departments and agencies have access to intelligence and receive the support needed to perform independent analysis;

(8) Shall protect, and ensure that programs are developed to protect, intelligence sources, methods, and activities from unauthorized disclosure;

(9) Shall, after consultation with the heads of affected departments and agencies, establish guidelines for Intelligence Community elements for:

(A) Classification and declassification of all intelligence and intelligence-related information classified under the authority of the Director or the authority of the head of a department or Intelligence Community element; and

(B) Access to and dissemination of all intelligence and intelligence-related information, both in its final form and in the form when initially gathered, to include intelligence originally classified by the head of a department or Intelligence Community element, except that access to and dissemination of information concerning United States persons shall be governed by procedures developed in accordance with Part 2 of this order;

(10) May, only with respect to Intelligence Community elements, and after consultation with thehead [sic] of the originating Intelligence Community element or the head of the originating department, declassify, or direct the declassification of, information or intelligence relating to intelligence sources, methods, and activities. The Director may only delegate this authority to the Principal Deputy Director of National Intelligence;

(11) May establish, operate, and direct one or more national intelligence centers to address intelligence priorities;

(12) May establish Functional Managers and Mission Managers, and designate officers or employees of the United States to serve in these positions.

(A) Functional Managers shall report to the Director concerning the execution of their duties as Functional Managers, and may be charged with developing and implementing strategic guidance, policies, and procedures for activities related to a specific intelligence discipline or set of intelligence activities; set training and tradecraft standards; and ensure coordination within and across intelligence disciplines and Intelligence Community elements and with related non-intelligence activities. Functional Managers may also advise the Director on: the management of resources; policies and procedures; collection capabilities and gaps; processing and dissemination of intelligence; technical architectures; and other issues or activities determined by the Director.

(i) The Director of the National Security Agency is designated the Functional Manager for signals intelligence;

(ii) The Director of the Central Intelligence Agency is designated the Functional Manager for human intelligence; and

(iii) The Director of the National Geospatial-Intelligence Agency is designated the Functional Manager for geospatial intelligence.

(B) Mission Managers shall serve as principal substantive advisors on all or specified aspects of intelligence related to designated countries, regions, topics, or functional issues;

(13) Shall establish uniform criteria for the determination of relative priorities for the transmission of critical foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such communications;

(14) Shall have ultimate responsibility for production and dissemination of intelligence produced by the Intelligence Community and authority to levy analytic tasks on intelligence production organizations within the Intelligence Community, in consultation with the heads of the Intelligence Community elements concerned;

(15) May establish advisory groups for the purpose of obtaining advice from within the Intelligence Community to carry out the Director's responsibilities, to include Intelligence Community executive management committees composed of senior Intelligence Community leaders. Advisory groups shall consist of representatives from elements of the Intelligence Community, as designated by the Director, or other executive branch departments, agencies, and offices, as appropriate;

(16) Shall ensure the timely exploitation and dissemination of data gathered by national intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government elements, including military commands;

(17) Shall determine requirements and priorities for, and manage and direct the tasking, collection, analysis, production, and dissemination of, national intelligence by elements of the Intelligence Community, including approving requirements for collection and analysis and resolving conflicts in collection requirements and in the tasking of national collection assets of Intelligence Community elements (except when

otherwise directed by the President or when the Secretary of Defense exercises collection tasking authority under plans and arrangements approved by the Secretary of Defense and the Director);

(18) May provide advisory tasking concerning collection and analysis of information or intelligence relevant to national intelligence or national security to departments, agencies, and establishments of the United States Government that are not elements of the Intelligence Community; and shall establish procedures, in consultation with affected heads of departments or agencies and subject to approval by the Attorney General, to implement this authority and to monitor or evaluate the responsiveness of United States Government departments, agencies, and other establishments;

(19) Shall fulfill the responsibilities in section 1.3(b)(17) and (18) of this order, consistent with applicable law and with full consideration of the rights of United States persons, whether information is to be collected inside or outside the United States;

(20) Shall ensure, through appropriate policies and procedures, the deconfliction, coordination, and integration of all intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program. In accordance with these policies and procedures:

(A) The Director of the Federal Bureau of Investigation shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities inside the United States;

(B) The Director of the Central Intelligence Agency shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities outside the United States;

(C) All policies and procedures for the coordination of counterintelligence activities and the clandestine collection of foreign intelligence inside the United States shall be subject to the approval of the Attorney General; and

(D) All policies and procedures developed under this section shall be coordinated with the heads of affected departments and Intelligence Community elements;

(21) Shall, with the concurrence of the heads of affected departments and agencies, establish joint procedures to deconflict, coordinate, and synchronize intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program, with intelligence activities, activities that involve foreign intelligence and security services, or activities that involve the use of clandestine methods, conducted by other United States Government departments, agencies, and establishments;

(22) Shall, in coordination with the heads of departments containing elements of the Intelligence Community, develop procedures to govern major system acquisitions funded in whole or in majority part by the National Intelligence Program;

(23) Shall seek advice from the Secretary of State to ensure that the foreign policy implications of proposed intelligence activities are considered, and shall ensure, through appropriate policies and procedures, that intelligence activities are conducted in a manner consistent with the responsibilities pursuant to law and presidential direction of Chiefs of United States Missions; and

(24) Shall facilitate the use of Intelligence Community products by the Congress in a secure manner.

(c) The Director's exercise of authorities in the Act and this order shall not abrogate the statutory or other responsibilities of the heads of departments of the United States Government or the Director of the Central Intelligence Agency. Directives issued and actions taken by the Director in the exercise of the Director's authorities and responsibilities to integrate, coordinate, and make the Intelligence Community more effective in providing intelligence related to national security shall be implemented by the elements of the Intelligence Community, provided that any department head whose department contains an element of the Intelligence Community and who believes that a directive or action of the Director violates the requirements of section 1018 of the IRTPA or this subsection shall bring the issue to the attention of the Director, the NSC, or the President for resolution in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments.

(d) Appointments to certain positions.

(1) The relevant department or bureau head shall provide recommendations and obtain the concurrence of the Director for the selection of: the Director of the National Security Agency, the Director of the National Reconnaissance Office, the Director of the National Geospatial-Intelligence Agency, the Under Secretary of Homeland Security for Intelligence and Analysis, the Assistant Secretary of State for Intelligence and Research, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury, and the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation. If the Director does not concur in the recommendation, the department head may not fill the vacancy or make the recommendation to the President, as the case may be. If the department head and the Director do not reach an agreement on the selection or recommendation, the Director and the department head concerned may advise the President directly of the Director's intention to withhold concurrence.

(2) The relevant department head shall consult with the Director before appointing an individual to fill a vacancy or recommending to the President an individual be nominated to fill a vacancy in any of the following positions: the Under Secretary of Defense for Intelligence; the Director of the Defense Intelligence Agency; uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps above the rank of Major General or Rear Admiral; the Assistant Commandant of the Coast Guard for Intelligence; and the Assistant Attorney General for National Security.

(e) Removal from certain positions.

(1) Except for the Director of the Central Intelligence Agency, whose removal the Director may recommend to the President, the Director and the relevant department head shall consult on the removal, or recommendation to the President for removal, as the case may be, of: the Director of the National Security Agency, the Director of the National Geospatial-Intelligence Agency, the Director of the Defense Intelligence Agency, the Under Secretary of Homeland Security for Intelligence and Analysis, the Assistant Secretary of State for Intelligence and Research, and the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury. If the Director and the department head do not agree on removal, or recommendation for removal, either may make a recommendation to the President for the removal of the individual.

(2) The Director and the relevant department or bureau head shall consult on the removal of: the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Director of the National Reconnaissance Office, the Assistant Commandant of the Coast Guard for Intelligence, and the Under Secretary of Defense for Intelligence. With respect to an individual appointed by a department head, the department head may remove the individual upon the request of the Director; if the department head chooses not to remove the individual, either the Director or the department head may advise the President of the department head's intention to retain the individual. In the case of the Under Secretary of Defense for Intelligence, the Secretary of Defense may recommend to the President either the removal or the

retention of the individual. For uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps, the Director may make a recommendation for removal to the Secretary of Defense.

(3) Nothing in this subsection shall be construed to limit or otherwise affect the authority of the President to nominate, appoint, assign, or terminate the appointment or assignment of any individual, with or without a consultation, recommendation, or concurrence.

1.4 THE INTELLIGENCE COMMUNITY

Consistent with applicable Federal law and with the other provisions of this order, and under the leadership of the Director, as specified in such law and this order, the Intelligence Community shall:

(a) Collect and provide information needed by the President and, in the performance of executive functions, the Vice President, the NSC, the Homeland Security Council, the Chairman of the Joint Chiefs of Staff, senior military commanders, and other executive branch officials and, as appropriate, the Congress of the United States;

(b) In accordance with priorities set by the President, collect information concerning, and conduct activities to protect against, international terrorism, proliferation of weapons of mass destruction, intelligence activities directed against the United States, international criminal drug activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(c) Analyze, produce, and disseminate intelligence;

(d) Conduct administrative, technical, and other support activities within the United States and abroad necessary for the performance of authorized activities, to include providing services of common concern for the Intelligence Community as designated by the Director in accordance with this order;

(e) Conduct research, development, and procurement of technical systems and devices relating to authorized functions and missions or the provision of services of common concern for the Intelligence Community;

(f) Protect the security of intelligence related activities, information, installations, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Intelligence Community elements as are necessary;

(g) Take into account State, local, and tribal governments' and, as appropriate, private sector entities' information needs relating to national and homeland security;

(h) Deconflict, coordinate, and integrate all intelligence activities and other information gathering in accordance with section 1.3(b)(20) of this order; and

(i) Perform such other functions and duties related to intelligence activities as the President may direct.

1.5 DUTIES AND RESPONSIBILITIES OF THE HEADS OF EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES

The heads of all departments and agencies shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Provide all programmatic and budgetary information necessary to support the Director in developing the National Intelligence Program;

(c) Coordinate development and implementation of intelligence systems and architectures and, as appropriate, operational systems and architectures of their departments, agencies, and other elements with the Director to respond to national intelligence requirements and all applicable information sharing and security guidelines, information privacy, and other legal requirements;

(d) Provide, to the maximum extent permitted by law, subject to the availability of appropriations and not inconsistent with the mission of the department or agency, such further support to the Director as the Director may request, after consultation with the head of the department or agency, for the performance of the Director's functions;

(e) Respond to advisory tasking from the Director under section 1.3(b)(18) of this order to the greatest extent possible, in accordance with applicable policies established by the head of the responding department or agency;

(f) Ensure that all elements within the department or agency comply with the provisions of Part 2 of this order, regardless of Intelligence Community affiliation, when performing foreign intelligence and counterintelligence functions;

(g) Deconflict, coordinate, and integrate all intelligence activities in accordance with section 1.3(b)(20), and intelligence and other activities in accordance with section 1.3(b)(21) of this order;

(h) Inform the Attorney General, either directly or through the Federal Bureau of Investigation, and the Director of clandestine collection of foreign intelligence and counterintelligence activities inside the United States not coordinated with the Federal Bureau of Investigation;

(i) Pursuant to arrangements developed by the head of the department or agency and the Director of the Central Intelligence Agency and approved by the Director, inform the Director and the Director of the Central Intelligence Agency, either directly or through his designee serving outside the United States, as appropriate, of clandestine collection of foreign intelligence collected through human sources or through human-enabled means outside the United States that has not been coordinated with the Central Intelligence Agency; and

(j) Inform the Secretary of Defense, either directly or through his designee, as appropriate, of clandestine collection of foreign intelligence outside the United States in a region of combat or contingency military operations designated by the Secretary of Defense, for purposes of this paragraph, after consultation with the Director of National Intelligence.

1.6 HEADS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY

The heads of elements of the Intelligence Community shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Report to the Attorney General possible violations of Federal criminal laws by employees and of specified Federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department, agency, or establishment concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(c) Report to the Intelligence Oversight Board, consistent with Executive Order 13462 of February 29, 2008, and provide copies of all such reports to the Director, concerning any intelligence activities of their elements that they have reason to believe may be unlawful or contrary to executive order or presidential directive;

(d) Protect intelligence and intelligence sources, methods, and activities from unauthorized disclosure in accordance with guidance from the Director;

(e) Facilitate, as appropriate, the sharing of information or intelligence, as directed by law or the President, to State, local, tribal, and private sector entities;

(f) Disseminate information or intelligence to foreign governments and international organizations under in-

telligence or counterintelligence arrangements or agreements established in accordance with section 1.3(b)(4) of this order;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of information or intelligence resulting from criminal drug intelligence activities abroad if they have intelligence responsibilities for foreign or domestic criminal drug production and trafficking; and

(h) Ensure that the inspectors general, general counsels, and agency officials responsible for privacy or civil liberties protection for their respective organizations have access to any information or intelligence necessary to perform their official duties.

1.7 INTELLIGENCE COMMUNITY ELEMENTS

Each element of the Intelligence Community shall have the duties and responsibilities specified below, in addition to those specified by law or elsewhere in this order. Intelligence Community elements within executive departments shall serve the information and intelligence needs of their respective heads of departments and also shall operate as part of an integrated Intelligence Community, as provided in law or this order.

(a) THE CENTRAL INTELLIGENCE AGENCY. The Director of the Central Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence;

(2) Conduct counterintelligence activities without assuming or performing any internal security functions within the United States;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover and proprietary arrangements;

(4) Conduct covert action activities approved by the President. No agency except the Central Intelligence Agency (or the Armed Forces of the United States in time of war declared by the Congress or during any period covered by a report from the President to the Congress consistent with the War Powers Resolution, Public Law 93–148) may conduct any covert action activity unless the President determines that another agency is more likely to achieve a particular objective;

(5) Conduct foreign intelligence liaison relationships with intelligence or security services of foreign governments or international organizations consistent with section 1.3(b)(4) of this order;

(6) Under the direction and guidance of the Director, and in accordance with section 1.3(b)(4) of this order, coordinate the implementation of intelligence and counterintelligence relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments or international organizations; and

(7) Perform such other functions and duties related to intelligence as the Director may direct.

(b) THE DEFENSE INTELLIGENCE AGENCY. The Director of the Defense Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions;

(2) Collect, analyze, produce, or, through tasking and coordination, provide defense and defense-related intelligence for the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, combatant commanders, other Defense components, and non-Defense agencies;

(3) Conduct counterintelligence activities;

(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover and proprietary arrangements;

(5) Conduct foreign defense intelligence liaison relationships and defense intelligence exchange programs with foreign defense establishments, intelligence or security services of foreign governments, and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order;

(6) Manage and coordinate all matters related to the Defense Attaché system; and

(7) Provide foreign intelligence and counterintelligence staff support as directed by the Secretary of Defense.

(c) THE NATIONAL SECURITY AGENCY. The Director of the National Security Agency shall:

(1) Collect (including through clandestine means), process, analyze, produce, and disseminate signals intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Establish and operate an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense, after coordination with the Director;

(3) Control signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(4) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements;

(5) Provide signals intelligence support for national and departmental requirements and for the conduct of military operations;

(6) Act as the National Manager for National Security Systems as established in law and policy, and in this capacity be responsible to the Secretary of Defense and to the Director;

(7) Prescribe, consistent with section 102A(g) of the Act, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling, and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the National Security Agency, and exercise the necessary supervisory control to ensure compliance with the regulations; and

(8) Conduct foreign cryptologic liaison relationships in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(d) THE NATIONAL RECONNAISSANCE OFFICE. The Director of the National Reconnaissance Office shall:

(1) Be responsible for research and development, acquisition, launch, deployment, and operation of overhead systems and related data processing facilities to collect intelligence and information to support national and departmental missions and other United States Government needs; and

(2) Conduct foreign liaison relationships relating to the above missions, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(e) THE NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY. The Director of the National Geospatial-Intelligence Agency shall:

(1) Collect, process, analyze, produce, and disseminate geospatial intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Provide geospatial intelligence support for national and departmental requirements and for the conduct of military operations;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements; and

(4) Conduct foreign geospatial intelligence liaison relationships, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(f) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS. The Commanders and heads of the intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps shall:

(1) Collect (including through clandestine means), produce, analyze, and disseminate defense and defense-

related intelligence and counterintelligence to support departmental requirements, and, as appropriate, national requirements;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct military intelligence liaison relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(g) INTELLIGENCE ELEMENTS OF THE FEDERAL BUREAU OF INVESTIGATION. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the intelligence elements of the Federal Bureau of Investigation shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions, in accordance with procedural guidelines approved by the Attorney General, after consultation with the Director;

(2) Conduct counterintelligence activities; and

(3) Conduct foreign intelligence and counterintelligence liaison relationships with intelligence, security, and law enforcement services of foreign governments or international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(h) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE COAST GUARD. The Commandant of the Coast Guard shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence including defense and defense-related information and intelligence to support national and departmental missions;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct foreign intelligence liaison relationships and intelligence exchange programs with foreign intelligence services, security services or international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and, when operating as part of the Department of Defense, 1.10(i) of this order.

(i) THE BUREAU OF INTELLIGENCE AND RESEARCH, DEPARTMENT OF STATE; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY; THE OFFICE OF NATIONAL SECURITY INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY; AND THE OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE, DEPARTMENT OF ENERGY. The heads of the Bureau of Intelligence and Research, Department of State; the Office of Intelligence and Analysis, Department of the Treasury; the Office of National Security Intelligence, Drug Enforcement Administration; the Office of Intelligence and Analysis, Department of Homeland Security; and the Office of Intelligence and Counterintelligence, Department of Energy shall:

(1) Collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support national and departmental missions; and

(2) Conduct and participate in analytic or information exchanges with foreign partners and international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(j) THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. The Director shall collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support the missions of the Office of the Director of National Intelligence, including the National Counterterrorism Center, and to support other national missions.

1.8 THE DEPARTMENT OF STATE

In addition to the authorities exercised by the Bureau of Intelligence and Research under sections 1.4 and 1.7(i) of this order, the Secretary of State shall:

(a) Collect (overtly or through publicly available sources) information relevant to United States foreign policy and national security concerns;

(b) Disseminate, to the maximum extent possible, reports received from United States diplomatic and consular posts;

(c) Transmit reporting requirements and advisory taskings of the Intelligence Community to the Chiefs of United States Missions abroad; and

(d) Support Chiefs of United States Missions in discharging their responsibilities pursuant to law and presidential direction.

1.9 THE DEPARTMENT OF THE TREASURY

In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of the Treasury under sections 1.4 and 1.7(i) of this order the Secretary of the Treasury shall collect (overtly or through publicly available sources) foreign financial information and, in consultation with the Department of State, foreign economic information.

1.10 THE DEPARTMENT OF DEFENSE

The Secretary of Defense shall:

(a) Collect (including through clandestine means), analyze, produce, and disseminate information and intelligence and be responsive to collection tasking and advisory tasking by the Director;

(b) Collect (including through clandestine means), analyze, produce, and disseminate defense and defense-related intelligence and counterintelligence, as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental, and tactical intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components and coordinate counterintelligence activities in accordance with section 1.3(b)(20) and (21) of this order;

(e) Act, in coordination with the Director, as the executive agent of the United States Government for signals intelligence activities;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director, within the United States Government;

(g) Carry out or contract for research, development, and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain defense intelligence relationships and defense intelligence exchange programs with selected cooperative foreign defense establishments, intelligence or security services of foreign governments, and international organizations, and ensure that such relationships and programs are in accordance with sections 1.3(b)(4), 1.3(b)(21) and 1.7(a)(6) of this order;

(j) Conduct such administrative and technical support activities within and outside the United States as are necessary to provide for cover and proprietary arrangements, to perform the functions described in [sub]sections (a) though [sic] (i) above, and to support the Intelligence Community elements of the Department of Defense; and

(k) Use the Intelligence Community elements within the Department of Defense identified in section 1.7(b)

through (f) and, when the Coast Guard is operating as part of the Department of Defense, (h) above to carry out the Secretary of Defense's responsibilities assigned in this section or other departments, agencies, or offices within the Department of Defense, as appropriate, to conduct the intelligence missions and responsibilities assigned to the Secretary of Defense.

1.11 THE DEPARTMENT OF HOMELAND SECURITY

In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of Homeland Security under sections 1.4 and 1.7(i) of this order, the Secretary of Homeland Security shall conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President or the Vice President of the United States, the Executive Office of the President, and, as authorized by the Secretary of Homeland Security or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against use of such surveillance equipment, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of Homeland Security and the Attorney General.

1.12 THE DEPARTMENT OF ENERGY

In addition to the authorities exercised by the Office of Intelligence and Counterintelligence of the Department of Energy under sections 1.4 and 1.7(i) of this order, the Secretary of Energy shall:

(a) Provide expert scientific, technical, analytic, and research capabilities to other agencies within the Intelligence Community, as appropriate;

(b) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(c) Participate with the Department of State in overtly collecting information with respect to foreign energy matters.

1.13 THE FEDERAL BUREAU OF INVESTIGATION

In addition to the authorities exercised by the intelligence elements of the Federal Bureau of Investigation of the Department of Justice under sections 1.4 and 1.7(g) of this order and under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the Federal Bureau of Investigation shall provide technical assistance, within or outside the United States, to foreign intelligence and law enforcement services, consistent with section 1.3(b)(20) and (21) of this order, as may be necessary to support national or departmental missions.

PART 2—CONDUCT OF INTELLIGENCE ACTIVITIES

2.1 NEED

Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to informed decisionmaking in the areas of national security, national defense, and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative, and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 PURPOSE

This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities, the spread of weapons of mass destruction, and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 COLLECTION OF INFORMATION

Elements of the Intelligence Community are authorized to collect, retain, or disseminate information concerning United States persons only in accordance with procedures established by the head of the Intelligence Community element concerned or by the head of a department containing such element and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order, after consultation with the Director. Those procedures shall permit collection, retention, and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the Federal Bureau of Investigation (FBI) or, when significant foreign intelligence is sought, by other authorized elements of the Intelligence Community, provided that no foreign intelligence collection by such elements may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international drug, or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims, or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources, methods, and activities from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other elements of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence element contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical, or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate Federal, state, local, or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, elements of the Intelligence Community may disseminate information to each appropriate element within the Intelligence Community for purposes of allowing the recipient element to determine whether the information is relevant to its responsibilities and can be retained by it, except that information derived from signals intelligence may only be disseminated or made available to Intelligence Community elements in accordance with procedures established by the Director in coordination with the Secretary of Defense and approved by the Attorney General.

2.4 COLLECTION TECHNIQUES

Elements of the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Elements of the Intelligence Commu-

nity are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the Intelligence Community element concerned or the head of a department containing such element concerned and approved by the Attorney General, after consultation with the Director. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The Central Intelligence Agency (CIA) to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by elements of the Intelligence Community other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession;

(c) Physical surveillance of a United States person in the United States by elements of the Intelligence Community other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence element contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service; and

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 Attorney General Approval

The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. The authority delegated pursuant to this paragraph, including the authority to approve the use of electronic surveillance as defined in the Foreign Intelligence Surveillance Act of 1978, as amended, shall be exercised in accordance with that Act.

2.6 Assistance to Law Enforcement and other Civil Authorities

Elements of the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property, and facilities of any element within the Intelligence Community;

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the general counsel of the providing element or department; and

(d) Render any other assistance and cooperation to law enforcement or other civil authorities not precluded by applicable law.

2.7 Contracting

Elements of the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 Consistency With Other Laws

Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 Undisclosed Participation in Organizations Within the United States

No one acting on behalf of elements of the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any element of the Intelligence Community without disclosing such person's intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the Intelligence Community element concerned or the head of a department containing such element and approved by the Attorney General, after consultation with the Director. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the Intelligence Community element head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 Human Experimentation

No element of the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 Prohibition on Assassination

No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 Indirect Participation

No element of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

2.13 Limitation on Covert Action

No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

PART 3—GENERAL PROVISIONS

3.1 Congressional Oversight

The duties and responsibilities of the Director and the heads of other departments, agencies, elements, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be

implemented in accordance with applicable law, including title V of the Act [50 U.S.C. 413 et seq.]. The requirements of applicable law, including title V of the Act, shall apply to all covert action activities as defined in this Order.

3.2 IMPLEMENTATION

The President, supported by the NSC, and the Director shall issue such appropriate directives, procedures, and guidance as are necessary to implement this order. Heads of elements within the Intelligence Community shall issue appropriate procedures and supplementary directives consistent with this order. No procedures to implement Part 2 of this order shall be issued without the Attorney General's approval, after consultation with the Director. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an element in the Intelligence Community (or the head of the department containing such element) other than the FBI. In instances where the element head or department head and the Attorney General are unable to reach agreements on other than constitutional or other legal grounds, the Attorney General, the head of department concerned, or the Director shall refer the matter to the NSC.

3.3 PROCEDURES

The activities herein authorized that require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order 12333. New procedures, as required by Executive Order 12333, as further amended, shall be established as expeditiously as possible. All new procedures promulgated pursuant to Executive Order 12333, as amended, shall be made available to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

3.4 REFERENCES AND TRANSITION

References to ''Senior Officials of the Intelligence Community'' or ''SOICs'' in executive orders or other Presidential guidance, shall be deemed references to the heads of elements in the Intelligence Community, unless the President otherwise directs; references in Intelligence Community or Intelligence Community element policies or guidance, shall be deemed to be references to the heads of elements of the Intelligence Community, unless the President or the Director otherwise directs.

3.5 DEFINITIONS

For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or their agents, or international terrorist organizations or activities.

(b) *Covert action* means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include:

(1) Activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) Traditional diplomatic or military activities or routine support to such activities;

(3) Traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) Activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(c) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(d) *Employee* means a person employed by, assigned or detailed to, or acting for an element within the Intelligence Community.

(e) *Foreign intelligence* means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(f) *Intelligence* includes foreign intelligence and counterintelligence.

(g) *Intelligence activities* means all activities that elements of the Intelligence Community are authorized to conduct pursuant to this order.

(h) *Intelligence Community and elements of the Intelligence Community* refers to:

(1) The Office of the Director of National Intelligence;

(2) The Central Intelligence Agency;

(3) The National Security Agency;

(4) The Defense Intelligence Agency;

(5) The National Geospatial-Intelligence Agency;

(6) The National Reconnaissance Office;

(7) The other offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(8) The intelligence and counterintelligence elements of the Army, the Navy, the Air Force, and the Marine Corps;

(9) The intelligence elements of the Federal Bureau of Investigation;

(10) The Office of National Security Intelligence of the Drug Enforcement Administration;

(11) The Office of Intelligence and Counterintelligence of the Department of Energy;

(12) The Bureau of Intelligence and Research of the Department of State;

(13) The Office of Intelligence and Analysis of the Department of the Treasury;

(14) The Office of Intelligence and Analysis of the Department of Homeland Security;

(15) The intelligence and counterintelligence elements of the Coast Guard; and

(16) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director and the head of the department or agency concerned, as an element of the Intelligence Community.

(i) *National Intelligence and Intelligence Related to National Security* means all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that pertains, as determined consistent with any guidance issued by the President, or that is determined for the purpose of access to information by the Director in accordance with section 1.3(a)(1) of this order, to pertain to more than one United States Government agency; and that involves threats to the United States, its people, property, or interests; the development, proliferation, or use of weapons of mass destruction; or any other matter bearing on United States national or homeland security.

(j) *The National Intelligence Program* means all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the Director and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(k) *United States person* means a United States citizen, an alien known by the intelligence element concerned

to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.6 REVOCATION

Executive Orders 13354 and 13355 of August 27, 2004, are revoked; and paragraphs 1.3(b)(9) and (10) of Part 1 supersede provisions within Executive Order 12958, as amended, to the extent such provisions in Executive Order 12958, as amended, are inconsistent with this Order.

3.7 GENERAL PROVISIONS

(a) Consistent with section 1.3(c) of this order, nothing in this order shall be construed to impair or otherwise affect:

(1) Authority granted by law to a department or agency, or the head thereof; or

(2) Functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.

[For provisions relating to consideration of Commandant and Assistant Commandant for Intelligence of the Coast Guard as a ''Senior Official of the Intelligence Community'' for purposes of Ex. Ord. No. 12333, set out above, and all other relevant authorities, see Ex. Ord. No. 13286, § 87, Feb. 28, 2003, 68 F.R. 10632, set out as a note under section 111 of Title 6, Domestic Security.]

EXECUTIVE ORDER NO. 12334

Ex. Ord. No. 12334, Dec. 4, 1981, 46 F.R. 59955, as amended by Ex. Ord. No. 12701, Feb. 14, 1990, 55 F.R. 5953, which established the President's Intelligence Oversight Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, formerly set out below.

EXECUTIVE ORDER NO. 12863

Ex. Ord. No. 12863, Sept. 13, 1993, 58 F.R. 48441, as amended by Ex. Ord. No. 13070, Dec. 15, 1997, 62 F.R. 66493; Ex. Ord. No. 13301, May 14, 2003, 68 F.R. 26981; Ex. Ord. No. 13376, Apr. 13, 2005, 70 F.R. 20261, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 13462, § 10, Feb. 29, 2008, 73 F.R. 11808, set out below.

EX. ORD. NO. 13434. NATIONAL SECURITY PROFESSIONAL DEVELOPMENT

Ex. Ord. No. 13434, May 17, 2007, 72 F.R. 28583, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the national security, it is hereby ordered as follows:

SECTION 1. *Policy*. In order to enhance the national security of the United States, including preventing, protecting against, responding to, and recovering from natural and manmade disasters, such as acts of terrorism, it is the policy of the United States to promote the education, training, and experience of current and future professionals in national security positions (security professionals) in executive departments and agencies (agencies).

SEC. 2. *National Strategy for Professional Development*. Not later than 60 days after the date of this order, the Assistant to the President for Homeland Security and Counterterrorism (APHS/CT), in coordination with the Assistant to the President for National Security Affairs (APNSA), shall submit to the President for approval a National Strategy for the Development of Security Professionals (National Strategy). The National Strategy shall set forth a framework that will provide to security professionals access to integrated education, training, and professional experience opportunities for the purpose of enhancing their mission-related knowledge, skills, and experience and thereby improve their capability to safeguard the security of the Nation. Such opportunities shall be provided across organizations, levels of government, and incident management disciplines, as appropriate.

SEC. 3. *Executive Steering Committee*. (a) There is established the Security Professional Development Executive Steering Committee (Steering Committee), which shall facilitate the implementation of the National Strategy. Not later than 120 days after the approval of the National Strategy by the President, the Steering Committee shall submit to the APHS/CT and the APNSA an implementation plan (plan) for the National Strategy, and annually thereafter shall submit to the APHS/CT and the APNSA a status report on the implementation of the plan and any recommendations for changes to the National Strategy.

(b) The Steering Committee shall consist exclusively of the following members (or their designees who shall be full-time officers or employees of the members' respective agencies):

(i) the Director of the Office of Personnel Management, who shall serve as Chair;

(ii) the Secretary of State;

(iii) the Secretary of the Treasury;

(iv) the Secretary of Defense;

(v) the Attorney General;

(vi) the Secretary of Agriculture;

(vii) the Secretary of Labor;

(viii) the Secretary of Health and Human Services;

(ix) the Secretary of Housing and Urban Development;

(x) the Secretary of Transportation;

(xi) the Secretary of Energy;

(xii) the Secretary of Education;

(xiii) the Secretary of Homeland Security;

(xiv) the Director of National Intelligence;

(xv) the Director of the Office of Management and Budget; and

(xvi) such other officers of the United States as the Chair of the Steering Committee may designate from time to time.

(c) The Steering Committee shall coordinate, to the maximum extent practicable, national security professional development programs and guidance issued by the heads of agencies in order to ensure an integrated approach to such programs.

(d) The Chair of the Steering Committee shall convene and preside at the meetings of the Steering Committee, set its agenda, coordinate its work, and, as appropriate to deal with particular subject matters, establish subcommittees of the Steering Committee that shall consist exclusively of members of the Steering Committee (or their designees under subsection (b) of this section), and such other full-time or permanent part-time officers or employees of the Federal Government as the Chair may designate.

SEC. 4. *Responsibilities*. The head of each agency with national security functions shall:

(a) identify and enhance existing national security professional development programs and infrastructure, and establish new programs as necessary, in order to fulfill their respective missions to educate, train, and employ security professionals consistent with the National Strategy and, to the maximum extent practicable, the plan and related guidance from the Steering Committee; and

(b) cooperate with the Steering Committee and provide such information, support, and assistance as the Chair of the Steering Committee may request from time to time.

SEC. 5. *Additional Responsibilities*. (a) Except for employees excluded by law, and subject to subsections (b), (c), and (d) of this section, the Director of the Office of Personnel Management, after consultation with the Steering Committee, shall:

(i) consistent with applicable merit-based hiring and advancement principles, lead the establishment of a national security professional development program in accordance with the National Strategy and the plan that provides for interagency and intergovernmental assignments and fellowship opportunities and provides for professional development guidelines for career advancement; and

(ii) issue to agencies rules and guidance or apply existing rules and guidance relating to the establishment of national security professional development programs to implement the National Strategy and the plan;

(b) The Secretary of Defense shall issue rules or guidance on professional development programs for Department of Defense military personnel, including interagency and intergovernmental assignments and fellowship opportunities, to implement the National Strategy and the plan, as appropriate, and shall coordinate such programs, to the maximum extent practicable, with the Steering Committee;

(c) The Secretary of State shall issue rules or guidance on national security professional development programs for the Foreign Service, including interagency and intergovernmental exchanges and fellowship opportunities, to implement the National Strategy and the plan, as appropriate, and shall coordinate such programs, to the maximum extent practicable, with the Steering Committee;

(d) The Director of National Intelligence, in coordination with the heads of agencies of which elements of the intelligence community are a part, shall issue rules or guidance on national security professional development programs for the intelligence community, including interagency and intergovernmental assignments and fellowship opportunities, to implement the National Strategy and the plan, as appropriate, and shall coordinate such programs, to the maximum extent practicable, with the Steering Committee; and

(e) The Secretary of Homeland Security shall develop a program to provide to Federal, State, local, and tribal government officials education in disaster preparedness, response, and recovery plans and authorities, and training in crisis decision-making skills, consistent with applicable presidential guidance.

SEC. 6. *General Provisions*. This order:

(a) shall be implemented consistent with applicable law and authorities of agencies, or heads of agencies, vested by law, and subject to the availability of appropriations;

(b) shall not be construed to impair or otherwise affect the authorities of any agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals, or the functions assigned by the President to the Director of the Office of Personnel Management; and

(c) is not intended to, and does not, create any right, benefit, or privilege, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13462. PRESIDENT'S INTELLIGENCE ADVISORY BOARD AND INTELLIGENCE OVERSIGHT BOARD

Ex. Ord. No. 13462, Feb. 29, 2008, 73 F.R. 11805, as amended by Ex. Ord. No. 13516, §1, Oct. 28, 2009, 74 F.R. 56521, 57241, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to ensure that the President and other officers of the United States with responsibility for the security of the Nation and the advancement of its interests have access to accurate, insightful, objective, and timely information concerning the capabilities, intentions, and activities of foreign powers.

SEC. 2. *Definitions*. As used in this order:

(a) ''department concerned'' means an executive department listed in section 101 of title 5, United States Code, that contains an organization listed in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended (50 U.S.C. 401a(4));

(b) ''intelligence activities'' has the meaning specified in section 3.5 of Executive Order 12333 of December 4, 1981, as amended; and

(c) ''intelligence community'' means the organizations listed in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended.

SEC. 3. *Establishment of the President's Intelligence Advisory Board*. (a) There is hereby established, within the Executive Office of the President and exclusively to advise and assist the President as set forth in this order, the President's Intelligence Advisory Board (PIAB).

(b) The PIAB shall consist of not more than 16 members appointed by the President from among individuals who are not full-time employees of the Federal Government.

(c) The President shall designate a Chair or Co-Chairs from among the members of the PIAB, who shall convene and preside at meetings of the PIAB, determine its agenda, and direct its work.

(d) Members of the PIAB and the Intelligence Oversight Board (IOB) established in section 5 of this order:

(i) shall serve without any compensation for their work on the PIAB or the IOB; and

(ii) while engaged in the work of the PIAB or the IOB, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government (5 U.S.C. 5701–5707).

(e) The PIAB shall utilize such full-time professional and administrative staff as authorized by the Chair and approved by the President or the President's designee. Such staff shall be supervised by an Executive Director of the PIAB, appointed by the President, whom the President may designate to serve also as the Executive Director of the IOB.

SEC. 4. *Functions of the PIAB*. Consistent with the policy set forth in section 1 of this order, the PIAB shall have the authority to, as the PIAB determines appropriate, or shall, when directed by the President:

(a) assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities, assess the adequacy of management, personnel and organization in the intelligence community, and review the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy and report the results of such assessments or reviews:

(i) to the President, as necessary but not less than twice each year; and

(ii) to the Director of National Intelligence (DNI) and the heads of departments concerned when the PIAB determines appropriate; and

(b) consider and make appropriate recommendations to the President, the DNI, or the head of the department concerned with respect to matters identified to the PIAB by the DNI or the head of a department concerned.

SEC. 5. *Establishment of Intelligence Oversight Board*.

(a) There is hereby established a committee of the PIAB to be known as the Intelligence Oversight Board.

(b) The IOB shall consist of not more than five members of the PIAB who are designated by the President from among members of the PIAB to serve on the IOB. The IOB shall utilize such full-time professional and administrative staff as authorized by the Chair and approved by the President or the President's designee. Such staff shall be supervised by an Executive Director

of the IOB, appointed by the President, whom the President may designate to serve also as the Executive Director of the PIAB.

(c) The President shall designate a Chair from among the members of the IOB, who shall convene and preside at meetings of the IOB, determine its agenda, and direct its work.

SEC. 6. *Functions of the IOB*. Consistent with the policy set forth in section 1 of this order, the IOB shall:

(a) issue criteria on the thresholds for reporting matters to the IOB, to the extent consistent with section 1.6(c) of Executive Order 12333, as amended[,] or the corresponding provision of any successor order;

(b) inform the President of intelligence activities that the IOB believes:

(i)(A) may be unlawful or contrary to Executive Order or presidential directive; and

(B) are not being adequately addressed by the Attorney General, the DNI, or the head of the department concerned; or

(ii) should be immediately reported to the President.[;]

(c) forward to the Attorney General information concerning intelligence activities that involve possible violations of Federal criminal laws or otherwise implicate the authority of the Attorney General;

(d) review and assess the effectiveness, efficiency, and sufficiency of the processes by which the DNI and the heads of departments concerned perform their respective functions under this order and report thereon as necessary, together with any recommendations, to the President and, as appropriate, the DNI and the head of the department concerned;

(e) receive and review information submitted by the DNI under subsection 7(c) of this order and make recommendations thereon, including for any needed corrective action, with respect to such information, and the intelligence activities to which the information relates, as necessary, but not less than twice each year, to the President, the DNI, and the head of the department concerned; and

(f) conduct, or request that the DNI or the head of the department concerned, as appropriate, carry out and report to the IOB the results of, investigations of intelligence activities that the IOB determines are necessary to enable the IOB to carry out its functions under this order.

SEC. 7. *Functions of the Director of National Intelligence*. Consistent with the policy set forth in section 1 of this order, the DNI shall:

(a) with respect to guidelines applicable to organizations within the intelligence community that concern reporting of intelligence activities described in subsection 6(b)(i)(A) of this order:

(i) review and ensure that such guidelines are consistent with section 1.6(c) of Executive Order 12333, as amended, or a corresponding provision of any successor order, and this order; and

(ii) issue for incorporation in such guidelines instructions relating to the format and schedule of such reporting as necessary to implement this order;

(b) with respect to intelligence activities described in subsection 6(b)(i)(A) of this order:

(i) receive reports submitted to the IOB pursuant to section 1.6(c) of Executive Order 12333, as amended, or a corresponding provision of any successor order;

(ii) forward to the Attorney General information in such reports relating to such intelligence activities to the extent that such activities involve possible violations of Federal criminal laws or implicate the authority of the Attorney General unless the DNI or the head of the department concerned has previously provided such information to the Attorney General; and

(iii) monitor the intelligence community to ensure that the head of the department concerned has directed needed corrective actions and that such actions have been taken and report to the IOB and the head of the department concerned, and as appropriate the President, when such actions have not been timely taken; and

(c) submit to the IOB as necessary and no less than twice each year:

(i) an analysis of the reports received under subsection (b)(i) of this section, including an assessment of the gravity, frequency, trends, and patterns of occurrences of intelligence activities described in subsection 6(b)(i)(A) of this order;

(ii) a summary of direction under subsection (b)(iii) of this section and any related recommendations; and

(iii) an assessment of the effectiveness of corrective action taken by the DNI or the head of the department concerned with respect to intelligence activities described in subsection 6(b)(i)(A) of this order.

SEC. 8. *Functions of Heads of Departments Concerned and Additional Functions of the Director of National Intelligence*.

(a) To the extent permitted by law, the DNI and the heads of departments concerned shall provide such information and assistance as the PIAB and the IOB determine is needed to perform their functions under this order.

(b) The heads of departments concerned shall:

(i) ensure that the DNI receives:

(A) copies of reports submitted to the IOB pursuant to section 1.6(c) of Executive Order 12333, as amended, or a corresponding provision of any successor order; and

(B) such information and assistance as the DNI may need to perform functions under this order; and

(ii) designate the offices within their respective organizations that shall submit reports to the IOB required by Executive Order and inform the DNI and the IOB of such designations; and

(iii) ensure that departments concerned comply with instructions issued by the DNI under subsection 7(a)(ii) of this order.

(c) The head of a department concerned who does not implement a recommendation to that head of department from the PIAB under subsection 4(b) of this order or from the IOB under subsections 6(c) or 6(d) of this order shall promptly report through the DNI to the Board that made the recommendation, or to the President, the reasons for not implementing the recommendation.

(d) The DNI shall ensure that the Director of the Central Intelligence Agency performs the functions with respect to the Central Intelligence Agency under this order that a head of a department concerned performs with respect to organizations within the intelligence community that are part of that department.

SEC. 9. *References and Transition*. (a) References in Executive Orders other than this order, or in any other presidential guidance, to the ''President's Foreign Intelligence Advisory Board'' shall be deemed to be references to the President's Intelligence Advisory Board established by this order.

(b) Individuals who are members of the President's Foreign Intelligence Advisory Board under Executive Order 12863 of September 13, 1993, as amended, immediately prior to the signing of this order shall be members of the President's Intelligence Advisory Board immediately upon the signing of this order, to serve as such consistent with this order until the date that is 15 months following the date of this order.

(c) Individuals who are members of the Intelligence Oversight Board under Executive Order 12863 immediately prior to the signing of this order shall be members of the Intelligence Oversight Board under this order, to serve as such consistent with this order until the date that is 15 months following the date of this order.

(d) The individual serving as Executive Director of the President's Foreign Intelligence Advisory Board immediately prior to the signing of this order shall serve as the Executive Director of the PIAB until such person resigns, dies, or is removed, or upon appointment of a successor under this order and shall serve as the Executive Director of the IOB until an Executive Director of the IOB is appointed or designated under this order.

SEC. 10. *Revocation*. Executive Order 12863 is revoked.

SEC. 11. *General Provisions*.

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) Any person who is a member of the PIAB or the IOB, or who is granted access to classified national security information in relation to the activities of the PIAB or the IOB, as a condition of access to such information, shall sign and comply with appropriate agreements to protect such information from unauthorized disclosure. This order shall be implemented in a manner consistent with Executive Order 12958 of April 17, 1995, as amended, and Executive Order 12968 of August 2, 1995, as amended.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EFFECTIVE DATES OF PROVISIONS IN TITLE I OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of Energy[,] the Secretary of Homeland Security[,] the Director of the Office of Management and Budget[, and] the Director of National Intelligence

Subsection 1097(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458, December 17, 2004) (the Act) [set out in a note above] provides:

(a) IN GENERAL- Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect not later than 6 months after the date of the enactment of this Act.

Subsection 1097(a) clearly contemplates that one or more of the provisions in Title I of the Act may take effect earlier than the date that is 6 months after the date of enactment of the Act, but does not state explicitly the mechanism for determining when such earlier effect shall occur, leaving it to the President in the execution of the Act. Moreover, given that section 1097(a) evinces a legislative intent to afford the President flexibility, and such flexibility is constitutionally appropriate with respect to intelligence matters (see *United States v. Curtiss-Wright Export Corporation*, 299 U.S. 304 (1936)), the executive branch shall construe section 1097(a) to authorize the President to select different effective dates that precede the 6-month deadline for different provisions in Title I.

Therefore, pursuant to the Constitution and the laws of the United States of America, including subsection 1097(a) of the Act, I hereby determine and direct:

1. Sections 1097(a) and 1103 of the Act [set out in notes above], relating respectively to effective dates of provisions and to severability, shall take effect immediately upon the signing of this memorandum to any extent that they have not already taken effect.

2. Provisions in Title I of the Act other than those addressed in numbered paragraph 1 of this memorandum shall take effect immediately upon the signing of this memorandum, except:

(a) any provision in Title I of the Act for which the Act expressly provides the date on which the provision shall take effect; and

(b) sections 1021 and 1092 of the Act [enacting section 404*o* of this title and provisions set out in a note above, respectively], relating to the National Counterterrorism Center.

The taking of effect of a provision pursuant to section 1097(a) of the Act and this memorandum shall not affect the construction of such provision by the executive branch as set forth in my Statement of December 17, 2004, upon signing the Act into law.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 401a. Definitions

As used in this Act:

(1) The term ''intelligence'' includes foreign intelligence and counterintelligence.

(2) The term ''foreign intelligence'' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term ''intelligence community'' includes the following:

(A) The Office of the Director of National Intelligence.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The Defense Intelligence Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The National Reconnaissance Office.

(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

(I) The Bureau of Intelligence and Research of the Department of State.

(J) The Office of Intelligence and Analysis of the Department of the Treasury.

(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

(L) Such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms ''national intelligence'' and ''intelligence related to national security'' refer to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that—

(A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and

(B) that involves—

(i) threats to the United States, its people, property, or interests;

(ii) the development, proliferation, or use of weapons of mass destruction; or

(iii) any other matter bearing on United States national or homeland security.

(6) The term ''National Intelligence Program'' refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.

(7) 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.

(July 26, 1947, ch. 343, § 3, as added Pub. L. 102–496, title VII, § 702, Oct. 24, 1992, 106 Stat. 3188; amended Pub. L. 103–359, title V, § 501(a)(1), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104–201, div. A, title XI, § 1122(b)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 107–56, title IX, § 902, Oct. 26, 2001, 115 Stat. 387; Pub. L. 107–108, title I, § 105, Dec. 28, 2001, 115 Stat. 1397; Pub. L. 107–296, title II, § 201(h), Nov. 25, 2002, 116 Stat. 2149; Pub. L. 107–306, title III, § 353(a), Nov. 27, 2002, 116 Stat. 2401; Pub. L. 108–136, div. A, title IX, § 921(e)(1), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108–177, title I, § 105(d)(1), Dec. 13, 2003, 117 Stat. 2603; Pub. L. 108–458, title I, §§ 1012, 1073, 1074(a), Dec. 17, 2004, 118 Stat. 3662, 3693, 3694.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

2004—Par. (4). Pub. L. 108–458, § 1073, amended par. (4) generally, substituting provisions defining ''intelligence community'' as including the Office of the Director of National Intelligence and other entities for provisions defining ''intelligence community'' as including the Office of the Director of Central Intelligence and other entities.

Par. (5). Pub. L. 108–458, § 1012, amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The terms 'national intelligence' and 'intelligence related to the national security'—

''(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

''(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.''

Par. (6). Pub. L. 108–458, § 1074(a), struck out ''Foreign'' before ''Intelligence Program''.

2003—Par. (4)(E). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Par. (4)(H). Pub. L. 108–177, § 105(d)(1)(A), struck out ''the Department of the Treasury,'' after ''the Federal Bureau of Investigation,''.

Par. (4)(J) to (L). Pub. L. 108–177, § 105(d)(1)(B), (C), added subpar. (J) and redesignated former subpars. (J) and (K) as (K) and (L), respectively.

2002—Par. (4)(J), (K). Pub. L. 107–296 added subpar. (J) and redesignated former subpar. (J) as (K).

Par. (7). Pub. L. 107–306 added par. (7).

2001—Par. (2). Pub. L. 107–56, § 902(1), inserted '', or international terrorist activities'' before period at end.

Par. (3). Pub. L. 107–56, § 902(2), substituted '', and activities conducted,'' for ''and activities conducted''.

Par. (4)(H). Pub. L. 107–108 struck out ''and'' before ''the Department of Energy'' and inserted '', and the Coast Guard'' before semicolon.

1996—Par. (4)(E). Pub. L. 104–201 substituted ''National Imagery and Mapping Agency'' for ''Central Imagery Office''.

1994—Par. (4)(E). Pub. L. 103–359 substituted ''the Central Imagery Office'' for ''the central imagery authority within the Department of Defense''.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

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 401 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 401 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

DELEGATION OF FUNCTIONS

For assignment of function of President under par. (5)(A) of this section to Director of National Intelligence, see Ex. Ord. No. 12333, § 1.3(a)(1), Dec. 4, 1981, 46 F.R. 59941, as amended, set out as a note under section 401 of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see

section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

SUBCHAPTER I—COORDINATION FOR NATIONAL SECURITY

§402. National Security Council

(a) Establishment; presiding officer; functions; composition

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the ''Council'').

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the Secretary of State;

(4) the Secretary of Defense;

(5) the Secretary of Energy;

(6) the Director for Mutual Security;

(7) the Chairman of the National Security Resources Board; and

(8) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) Additional functions

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) Executive secretary; appointment; staff employees

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) Recommendations and reports

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

(e) Participation of Chairman or Vice Chairman of Joint Chiefs of Staff

The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(f) Participation by Director of National Drug Control Policy

The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(g) Board for Low Intensity Conflict

The President shall establish within the National Security Council a board to be known as the ''Board for Low Intensity Conflict''. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

(h) Committee on Foreign Intelligence

(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the ''Committee'').

(2) The Committee shall be composed of the following:

(A) The Director of National Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(E) Such other members as the President may designate.

(3) The function of the Committee shall be to assist the Council in its activities by—

(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

(4) In carrying out its function, the Committee shall—

(A) conduct an annual review of the national security interests of the United States;

(B) identify on an annual basis, and at such other times as the Council may require, the

intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

(5) The Committee shall submit each year to the Council and to the Director of National Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).

(i) Committee on Transnational Threats

(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the ''Committee'').

(2) The Committee shall include the following members:

(A) The Director of National Intelligence.

(B) The Secretary of State.

(C) The Secretary of Defense.

(D) The Attorney General.

(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(F) Such other members as the President may designate.

(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

(4) In carrying out its function, the Committee shall—

(A) identify transnational threats;

(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

(C) monitor implementation of such strategies;

(D) make recommendations as to appropriate responses to specific transnational threats;

(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

(5) For purposes of this subsection, the term ''transnational threat'' means the following:

(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

(B) Any individual or group that engages in an activity referred to in subparagraph (A).

(j) Participation of Director of National Intelligence

The Director of National Intelligence (or, in the Director's absence, the Principal Deputy Director of National Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(k) Special Adviser to the President on International Religious Freedom

It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 6402 of title 22), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.

***(l)* Participation of Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism**

The United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (or, in the Coordinator's absence, the Deputy United States Coordinator) may, in the performance of the Coordinator's duty as principal advisor to the President on all matters relating to the prevention of weapons of mass destruction proliferation and terrorism, and, subject to the direction of the President, attend and participate in meetings of the National Security Council and the Homeland Security Council.

(July 26, 1947, ch. 343, title I, § 101, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 3, 63 Stat. 579; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Oct. 10, 1951, ch. 479, title V, § 501(e)(1), 65 Stat. 378; Pub. L. 99–433, title II, § 203, Oct. 1, 1986, 100 Stat. 1011; Pub. L. 99–500, § 101(c) [title IX, § 9115(f)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–125, and Pub. L. 99–591, § 101(c) [title IX, § 9115(f)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–125; Pub. L. 99–661, div. A, title XIII, § 1311(f), Nov. 14, 1986, 100 Stat. 3986; Pub. L. 100–690, title I, § 1003(a)(3), Nov. 18, 1988, 102 Stat. 4182; Pub. L. 102–496, title VII, § 703, Oct. 24, 1992, 106 Stat. 3189; Pub. L. 104–293, title VIII, §§ 802, 804, Oct. 11, 1996, 110 Stat. 3474, 3476; Pub. L. 105–277, div. C, title VII, § 713(b), Oct. 21, 1998, 112 Stat. 2681–693; Pub. L. 105–292, title III, § 301, Oct. 27, 1998, 112 Stat. 2800; Pub. L. 108–458, title I, §§ 1071(a)(1)(A)–(D), 1072(a)(1), Dec. 17, 2004, 118 Stat. 3689, 3692; Pub. L. 110–53, title XVIII, § 1841(g), Aug. 3, 2007, 121 Stat. 500; Pub. L. 110–140, title IX, § 932, Dec. 19, 2007, 121 Stat. 1740.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Em-

ployees. See, particularly, section 3301 et seq. of Title 5.

This Act, referred to in subsec. (j), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

In subsec. (c), provisions that specified compensation of $10,000 per year for the executive secretary to the Council were omitted. Section 304(b) of Pub. L. 88–426 amended section 105 of Title 3, The President, to include the executive secretary of the Council among those whose compensation was authorized to be fixed by the President. Section 1(a) of Pub. L. 95–570 further amended section 105 of Title 3 to authorize the President to appoint and fix the pay of the employees of the White House Office subject to certain provisions.

In subsec. (c), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949, as amended'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2007—Subsec. (a)(5) to (8). Pub. L. 110–140 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

Subsecs. (i), (k). Pub. L. 110–53, §1841(g)(1), redesignated subsec. (i), relating to Special Adviser to the President on International Religious Freedom, as (k).

Subsec. (*l*). Pub. L. 110–53, §1841(g)(2), added subsec. (*l*).

2004—Subsec. (h)(2)(A). Pub. L. 108–458, §1071(a)(1)(A), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (h)(5). Pub. L. 108–458, §1071(a)(1)(B), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (i)(2)(A). Pub. L. 108–458, §1071(a)(1)(C), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (j). Pub. L. 108–458, §1072(a)(1), substituted ''Principal Deputy Director of National Intelligence'' for ''Deputy Director of Central Intelligence''.

Pub. L. 108–458, §1071(a)(1)(D), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

1998—Subsecs. (f), (g). Pub. L. 105–277 added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (i). Pub. L. 105–292 added subsec. (i) relating to Special Adviser to the President on International Religious Freedom.

1996—Subsec. (h). Pub. L. 104–293, §802(2), added subsec. (h). Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 104–293, §804, added subsec. (i).

Subsec. (j). Pub. L. 104–293, §802(1), redesignated subsec. (h) as (j).

1992—Subsec. (h). Pub. L. 102–496 added subsec. (h).

1988—Subsecs. (f), (g). Pub. L. 100–690, §§1003(a)(3), 1009, temporarily added subsec. (f), relating to participation by Director of National Drug Control Policy in meetings of National Security Council, and redesignated former subsec. (f) as (g). See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (e). Pub. L. 99–433 added subsec. (e).

Subsec. (f). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended section identically adding subsec. (f).

1951—Subsec. (a). Act Oct. 10, 1951, inserted cl. (5) relating to Director for Mutual Security, in fourth paragraph, and renumbered former cls. (5) and (6) thereof as cls. (6) and (7), respectively.

1949—Subsec. (a). Act Aug. 10, 1949, added the Vice President to the Council, removed the Secretaries of the military departments, to authorize the President to add, with the consent of the Senate, Secretaries and Under Secretaries of other executive departments and of the military department, and the Chairmen of the Munitions Board and the Research and Development Board.

Subsec. (c). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923, as amended''.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

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 401 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 401 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective Jan. 21, 1989, and repealed on Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100–690.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Office of Director for Mutual Security abolished and functions of Director, including those as a member of National Security Council, transferred to Director of Foreign Operations Administration by Reorg. Plan No. 7 of 1953, eff. Aug. 1, 1953, 18 F.R. 4541, set out in the Appendix to Title 5, Government Organization and Employees. Foreign Operations Administration abolished by Ex. Ord. No. 10610, May 9, 1955, 20 F.R. 3179, and its functions and offices transferred to Department of State to be administered by International Cooperation Administration. For later transfer, see section 2381 of Title 22, Foreign Relations and Intercourse, and notes set out under that section.

National Security Resources Board, together with Office of Chairman, abolished by section 6 of Reorg. Plan No. 3 of 1953, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out under section 404 of this title. Functions of Chairman with limited exception, including his functions as a member of National Security Council transferred to Office of Defense Mobilization by section 2(a) of Reorg. Plan No. 3 of 1953. Functions of Director of Office of Defense Mobilization with respect to being a member of National Security Council transferred to Director of Office of Civil and Defense Mobilization by Reorg. Plan No. 1 of 1958, §4, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended by Pub. L. 85–763, Aug. 26, 1958, 72 Stat. 861, set out as a note under section 5195 of Title 42, The Public Health and Welfare. For subsequent transfers to Office of Emergency Planning, Office of Emergency Preparedness, and President, see Transfer of Functions notes set out under section 404 of this title.

Munitions Board, together with office of Chairman, abolished by section 2 of Reorg. Plan No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. All functions vested in Munitions Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

Research and Development Board, together with office of Chairman, abolished by section 2 of Reorg. Plan

No. 6 of 1953, eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, set out in the Appendix to Title 5, Government Organization and Employees. Functions vested in Board transferred to Secretary of Defense by section 1(a) of Reorg. Plan No. 6 of 1953.

National Security Council, together with its functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 20, 1949, 14 F.R. 5227, 63 Stat. 1067, set out in the Appendix to Title 5, Government Organization and Employees.

RULE OF CONSTRUCTION FOR DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS OF PUBLIC LAWS 99–500, 99–591, AND 99–661

For rule of construction for certain duplicate provisions of Public Laws 99–500, 99–591, and 99–661, see section 6 of Pub. L. 100–26, set out as a note under section 2302 of Title 10, Armed Forces.

SECTION AS UNAFFECTED BY REPEALS

Repeals by section 542(a) of Mutual Security Act of 1954 did not repeal amendment to this section by act Oct. 10, 1951.

PILOT PROGRAM ON CRYPTOLOGIC SERVICE TRAINING

Pub. L. 108–375, div. A, title IX, § 922, Oct. 28, 2004, 118 Stat. 2029, provided that:

''(a) PROGRAM AUTHORIZED.—The Director of the National Security Agency may carry out a pilot program on cryptologic service training for the intelligence community.

''(b) OBJECTIVE OF PROGRAM.—The objective of the pilot program is to increase the number of qualified entry-level language analysts and intelligence analysts available to the National Security Agency and the other elements of the intelligence community through the directed preparation and recruitment of qualified entry-level language analysts and intelligence analysts who commit to a period of service or a career in the intelligence community.

''(c) PROGRAM SCOPE.—The pilot program shall be national in scope.

''(d) PROGRAM PARTICIPANTS.—(1) Subject to the provisions of this subsection, the Director shall select the participants in the pilot program from among individuals qualified to participate in the pilot program utilizing such procedures as the Director considers appropriate for purposes of the pilot program.

''(2) Each individual who receives financial assistance under the pilot program shall perform one year of obligated service with the National Security Agency, or another element of the intelligence community approved by the Director, for each academic year for which such individual receives such financial assistance upon such individual's completion of post-secondary education.

''(3) Each individual selected to participate in the pilot program shall be qualified for a security clearance appropriate for the individual under the pilot program.

''(4) The total number of participants in the pilot program at any one time may not exceed 400 individuals.

''(e) PROGRAM MANAGEMENT.—In carrying out the pilot program, the Director shall—

''(1) identify individuals interested in working in the intelligence community, and committed to taking college-level courses that will better prepare them for a career in the intelligence community as a language analyst or intelligence analyst;

''(2) provide each individual selected for participation in the pilot program—

''(A) financial assistance for the pursuit of courses at institutions of higher education selected by the Director in fields of study that will qualify such individual for employment by an element of the intelligence community as a language analyst or intelligence analyst; and

''(B) educational counseling on the selection of courses to be so pursued; and

''(3) provide each individual so selected information on the opportunities available for employment in the intelligence community.

''(f) DURATION OF PROGRAM.—(1) The Director shall terminate the pilot program not later than six years after the date of the enactment of this Act [Oct. 28, 2004].

''(2) The termination of the pilot program under paragraph (1) shall not prevent the Director from continuing to provide assistance, counseling, and information under subsection (e) to individuals who are participating in the pilot program on the date of termination of the pilot program throughout the academic year in progress as of that date.''

NATIONAL SECURITY AGENCY ACT OF 1959

Pub. L. 86–36, May 29, 1959, 73 Stat. 63, as amended by Pub. L. 87–367, title II, §§ 201, 204, Oct. 4, 1961, 75 Stat. 789, 791; Pub. L. 87–793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88–290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88–426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88–631, § 3(d), 78 Stat. 1008; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 660; Oct. 8, 1966, Pub. L. 89–632, § 1(e), 80 Stat. 878; Pub. L. 91–187, § 2, Dec. 30, 1969, 83 Stat. 850; Pub. L. 96–450, title IV, § 402(a), Oct. 14, 1980, 94 Stat. 1977; Pub. L. 97–89, title VI, §§ 601–603, Dec. 4, 1981, 95 Stat. 1154–1156, eff. Oct. 1, 1981; Pub. L. 99–335, title V, § 507(a), June 6, 1986, 100 Stat. 628; Pub. L. 99–569, title V, § 505, Oct. 27, 1986, 100 Stat. 3200; Pub. L. 101–193, title V, § 505(b), Nov. 30, 1989, 103 Stat. 1709; Pub. L. 101–194, title V, § 506(c)(2), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 102–88, title V, § 503, Aug. 14, 1991, 105 Stat. 436; Pub. L. 102–183, title IV, § 405, Dec. 4, 1991, 105 Stat. 1267; Pub. L. 102–496, title III, § 304(a), title IV, § 405, title VIII, § 803(b), Oct. 24, 1992, 106 Stat. 3183, 3186, 3253; Pub. L. 103–359, title VIII, § 806(b)(2), Oct. 14, 1994, 108 Stat. 3442; Pub. L. 104–106, div. A, title X, § 1064(b), Feb. 10, 1996, 110 Stat. 445; Pub. L. 104–201, div. A, title XVI, § 1633(b)(1), Sept. 23, 1996, 110 Stat. 2751; Pub. L. 107–108, title V, § 506, Dec. 28, 2001, 115 Stat. 1406; Pub. L. 107–306, title VIII, § 841(f), Nov. 27, 2002, 116 Stat. 2432; Pub. L. 108–177, title III, § 377(c), title V, § 501, Dec. 13, 2003, 117 Stat. 2630, 2633; Pub. L. 108–487, title V, § 501, Dec. 23, 2004, 118 Stat. 3950; Pub. L. 109–364, div. A, title IX, § 933, Oct. 17, 2006, 120 Stat. 2363, provided: ''That this Act [this note] may be cited as the 'National Security Agency Act of 1959'. [Amended Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 660; Pub. L. 96–450, title IV, § 402(a)(2), Oct. 14, 1980, 94 Stat. 1978.]

''[SEC. 2. Repealed. Pub. L. 104–201, div. A, title XVI, § 1633(b)(1), Sept. 23, 1996, 110 Stat. 2751.]

''SEC. 3. [Amended section 1581(a) of Title 10, Armed Forces.]

''[SEC. 4. Repealed. Pub. L. 104–201, div. A, title XVI, § 1633(b)(1), Sept. 23, 1996, 110 Stat. 2751.]

''SEC. 5. Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 207 of the Independent Offices Appropriation Act, 1949, as amended (5 U.S.C. 118h) [see 5 U.S.C. 5941], for employees whose rates of basic compensation are fixed by statute.

''SEC. 6. (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law (including, but not limited to, the first section and section 2 of the Act of August 28, 1935 (5 U.S.C. 654) [repealed by Pub. L. 86–626, title I, § 101, July 12, 1960, 74 Stat. 427]) shall be construed to require the disclosure of the organization or any function of the National Security Agency, or any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

''(b) The reporting requirements of section 1582 of title 10, United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

''[SEC. 7. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 660.]

''SEC. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act [May 29, 1959].

''SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 ([former] 40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

''(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

''(1) allowances and benefits—

''(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law; and

''(B) in the case of selected personnel serving in circumstances similar to those in which personnel of the Central Intelligence Agency serve, comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency;

''(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense determines that it would be in the public interest to provide such housing; and

''(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) [50 U.S.C. 2001 et seq.] and in section 18 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403r].

''(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

''(d) Members of the Armed Forces may not receive benefits under both subsection (b)(1) and title 37, United States Code, for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

''(e) Regulations issued pursuant to subsection (b)(1) shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

[Amended Pub. L. 102–496, title VIII, §803(b), Oct. 24, 1992, 106 Stat. 3253. Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.]

[Amended Pub. L. 101–193, title V, §505(b), Nov. 30, 1989, 103 Stat. 1709.]

[Amended Pub. L. 99–335, title V, §507(a), June 6, 1986, 100 Stat. 628. Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.]

[Amended Pub. L. 97–89, title VI, §601, Dec. 4, 1981, 95 Stat. 1154.]

[Added Pub. L. 96–450, title IV, §402(a)(1), Oct. 14, 1980, 94 Stat. 1977.]

''SEC. 10. (a) The Director of the National Security Agency shall arrange for, and shall prescribe regulations concerning, language and language-related training programs for military and civilian cryptologic personnel. In establishing programs under this section for language and language-related training, the Director—

''(1) may provide for the training and instruction to be furnished, including functional and geographic area specializations;

''(2) may arrange for training and instruction through other Government agencies and, in any case in which appropriate training or instruction is unavailable through Government facilities, through nongovernmental facilities that furnish training and instruction useful in the fields of language and foreign affairs;

''(3) may support programs that furnish necessary language and language-related skills, including, in any case in which appropriate programs are unavailable at Government facilities, support through contracts, grants, or cooperation with nongovernmental educational institutions; and

''(4) may obtain by appointment or contract the services of individuals to serve as language instructors, linguists, or special language project personnel.

''(b)(1) In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.

''(2) In order to provide linguistic training and support for cryptologic personnel, the Director—

''(A) may pay all or part of the tuition and other expenses related to the training of personnel who are assigned or detailed for language and language-related training, orientation, or instruction; and

''(B) may pay benefits and allowances to civilian personnel in accordance with chapters 57 and 59 of title 5, United States Code, and to military personnel in accordance with chapter 7 of title 37, United States Code, and applicable provisions of title 10, United States Code, when such personnel are assigned to training at sites away from their designated duty station.

''(c)(1) To the extent not inconsistent, in the opinion of the Secretary of Defense, with the operation of military cryptologic reserve units and in order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director may establish a cryptologic linguist reserve. The cryptologic linguist reserve may consist of former or retired civilian or military cryptologic personnel of the National Security Agency and of other qualified individuals, as determined by the Director of the Agency. Each member of the cryptologic linguist reserve shall agree that, during any period of emergency (as determined by the Director), the member shall return to active civilian status with the National Security Agency and shall perform such linguistic or linguistic-related duties as the Director may assign.

''(2) In order to attract individuals to become members of the cryptologic linguist reserve, the Director, without regard to subchapter IV of chapter 55 of title 5, United States Code, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.

''(3) In order to provide training and support for members of the cryptologic linguist reserve, the Director—

''(A) may pay all or part of the tuition and other expenses related to the training of individuals in the cryptologic linguist reserve who are assigned or detailed for language and language-related training, orientation, or instruction; and

''(B) may pay benefits and allowances in accordance with chapters 57 and 59 of title 5, United States Code,

to individuals in the cryptologic linguist reserve who are assigned to training at sites away from their homes or regular places of business.

''(d)(1) The Director, before providing training under this section to any individual, may obtain an agreement with that individual that—

''(A) in the case of current employees, pertains to continuation of service of the employee, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code; and

''(B) in the case of individuals accepted for membership in the cryptologic linguist reserve, pertains to return to service when requested, and repayment of the expenses of such training for failure to fulfill the agreement, consistent with the provisions of section 4108 of title 5, United States Code.

''(2) The Director, under regulations prescribed under this section, may waive, in whole or in part, a right of recovery under an agreement made under this subsection if it is shown that the recovery would be against equity and good conscience or against the public interest.

''(e)(1) Subject to paragraph (2), the Director may provide to family members of military and civilian cryptologic personnel assigned to representational duties outside the United States, in anticipation of the assignment of such personnel outside the United States or while outside the United States, appropriate orientation and language training that is directly related to the assignment abroad.

''(2) Language training under paragraph (1) may not be provided to any individual through payment of the expenses of tuition or other cost of instruction at a non-Government educational institution unless appropriate instruction is not available at a Government facility.

''(f) The Director may waive the applicability of any provision of chapter 41 of title 5, United States Code, to any provision of this section if he finds that such waiver is important to the performance of cryptologic functions.

''(g) The authority of the Director to enter into contracts or to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

''(h) Regulations issued pursuant to this section shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

''(i) The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines. [Added Pub. L. 96–450, title IV, § 402(a)(1), Oct. 14, 1980, 94 Stat. 1978, and amended Pub. L. 97–89, title VI, § 602, Dec. 4, 1981, 95 Stat. 1154.]

''SEC. 11. (a)(1) The Director of the National Security Agency may authorize agency personnel within the United States to perform the same functions as officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code, with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

''(A) at the National Security Agency Headquarters complex and at any facilities and protected property which are solely under the administration and control of, or are used exclusively by, the National Security Agency; and

''(B) in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such facilities or protected property and extending outward 500 feet.

''(2) The performance of functions and exercise of powers under subparagraph (B) of paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that the performance of such functions and exercise of such powers is reasonable to protect against physical damage or injury, or threats of physical damage or injury, to agency installations, property, or employees.

''(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency, or any other Federal police or Federal protective service.

''(4) The rules and regulations enforced by such personnel shall be the rules and regulations prescribed by the Director and shall only be applicable to the areas referred to in subparagraph (A) of paragraph (1).

''(5) Not later than July 1 each year through 2004, the Director shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report that describes in detail the exercise of the authority granted by this subsection and the underlying facts supporting the exercise of such authority, during the preceding fiscal year. The Director shall make each such report available to the Inspector General of the National Security Agency.

''(b) The Director of the National Security Agency is authorized to establish penalties for violations of the rules or regulations prescribed by the Director under subsection (a). Such penalties shall not exceed those specified in section 1315(c)(2) of title 40, United States Code.

''(c) Agency personnel designated by the Director of the National Security Agency under subsection (a) shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) refers.

''(d)(1) Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—

''(A) protect an individual in the presence of such agency personnel from a crime of violence;

''(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

''(C) prevent the escape of any individual whom such agency personnel reasonably believe to have committed a crime of violence in the presence of such agency personnel.

''(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679 of title 28, United States Code.

''(3) In this subsection, the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code. [Added Pub. L. 96–450, title IV, § 402(a)(1), Oct. 14, 1980, 94 Stat. 1978; amended Pub. L. 107–108, title V, § 506, Dec. 28, 2001, 115 Stat. 1406; Pub. L. 107–306, title VIII, § 841(f), Nov. 27, 2002, 116 Stat. 2432; Pub. L. 108–177, title III, § 377(c), title V, § 501, Dec. 13, 2003, 117 Stat. 2630, 2633.]

''SEC. 12. (a)(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall—

''(A) meet the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

''(B) provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title;

''(C) provide, without regard to section 2, rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

''(D) provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

''(E) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense or his designee);

''(F) permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title;

''(G) provide that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c) of such title.[;] and

''(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.

''(2) Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may—

''(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service; and

''(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

''(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

''(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

[Amended Pub. L. 104–106, div. A, title X, §1064(b), Feb. 10, 1996, 110 Stat. 445.]

[Amended Pub. L. 101–194, title V, §506(c)(2), Nov. 30, 1989, 103 Stat. 1759. Amendment by Pub. L. 101–194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101–194, set out as an Effective Date of 1989 Amendment note under section 3151 of Title 5, Government Organization and Employees.]

''SEC. 13. (a) The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

''(b) The grant program established by subsection (a) shall be conducted in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) [31 U.S.C. 6301 et seq.] to the extent that such Act is consistent with and in accordance with section 6 of this Act.

''(c) The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

''SEC. 14. Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years. [Added Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

''SEC. 15. (a) No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words 'National Security Agency', the initials 'NSA', the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

''(b) 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 action 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 Pub. L. 97–89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156.]

''SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

''(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

''(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

''(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

''(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

''(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

''(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

''(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency

due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

''(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

''(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

''(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.

''(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

''(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

''(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

''(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

''(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section. [Added Pub. L. 99–569, title V, § 505, Oct. 27, 1986, 100 Stat. 3200.]

''[SEC. 17. Repealed. Pub. L. 103–359, title VIII, § 806(b)(2), Oct. 14, 1994, 108 Stat. 3442.]

''SEC. 18. (a) The Secretary of Defense may pay the expenses referred to in section 5742(b) of title 5, United States Code, in the case of any employee of the National Security Agency who dies while on a rotational tour of duty within the United States or while in transit to or from such tour of duty.

''(b) For the purposes of this section, the term 'rotational tour of duty', with respect to an employee, means a permanent change of station involving the transfer of the employee from the National Security Agency headquarters to another post of duty for a fixed period established by regulation to be followed at the end of such period by a permanent change of station involving a transfer of the employee back to such headquarters. [Added Pub. L. 102–183, title IV, § 405, Dec. 4, 1991, 105 Stat. 1267; amended Pub. L. 102–496, title III, § 304(a), Oct. 24, 1992, 106 Stat. 3183.]

''SEC. 19. (a) There is established the National Security Agency Emerging Technologies Panel. The Panel is a standing panel of the National Security Agency. The Panel shall be appointed by, and shall report directly to, the Director of the National Security Agency.

''(b) The Panel shall study and assess, and periodically advise the Director on, the research, development, and application of existing and emerging science and technology advances, advances in encryption, and other topics.

''(c) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Panel. [Added Pub. L. 108–487, title V, § 501, Dec. 23, 2004, 118 Stat. 3950.]

''SEC. 20. (a) The Director may collect charges for evaluating, certifying, or validating information assurance products under the National Information Assurance Program or successor program.

''(b) The charges collected under subsection (a) shall be established through a public rulemaking process in accordance with Office of Management and Budget Circular No. A–25.

''(c) Charges collected under subsection (a) shall not exceed the direct costs of the program referred to in that subsection.

''(d) The appropriation or fund bearing the cost of the service for which charges are collected under the program referred to in subsection (a) may be reimbursed, or the Director may require advance payment subject to such adjustment on completion of the work as may be agreed upon.

''(e) Amounts collected under this section shall be credited to the account or accounts from which costs associated with such amounts have been or will be incurred, to reimburse or offset the direct costs of the program referred to in subsection (a).'' [Added Pub. L. 109–364, div. A, title IX, § 933, Oct. 17, 2006, 120 Stat. 2363.]

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

EXECUTIVE ORDER NO. 10483

Ex. Ord. No. 10483, Sept. 2, 1953, 18 F.R. 5379, as amended by Ex. Ord. No. 10598, Feb. 28, 1955, 20 F.R. 1237, which provided for an Operations Coordinating Board, was superseded by Ex. Ord. No. 10700, Feb. 25, 1957, formerly set out below.

EXECUTIVE ORDER NO. 10700

Ex. Ord. No. 10700, Feb. 25, 1957, 22 F.R. 1111, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. 10838, Sept. 16, 1959, 24 F.R. 7519, which provided for the Operations Coordinating Board, was revoked by Ex. Ord. No. 10920, Feb. 18, 1961, 26 F.R. 1463.

EX. ORD. NO. 13228. ESTABLISHING THE OFFICE OF HOMELAND SECURITY AND THE HOMELAND SECURITY COUNCIL

Ex. Ord. No. 13228, Oct. 8, 2001, 66 F.R. 51812, as amended by Ex. Ord. No. 13284, § 3, Jan. 23, 2003, 68 F.R. 4075; Ex. Ord. No. 13286, § 8, Feb. 28, 2003, 68 F.R. 10622, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Establishment*. I hereby establish within the Executive Office of the President an Office of Homeland Security (the ''Office'') to be headed by the Assistant to the President for Homeland Security.

SEC. 2. *Mission*. The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office

shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

SEC. 3. *Functions*. The functions of the Office shall be to coordinate the executive branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

(a) *National Strategy*. The Office shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and shall periodically review and coordinate revisions to that strategy as necessary.

(b) *Detection*. The Office shall identify priorities and coordinate efforts for collection and analysis of information within the United States regarding threats of terrorism against the United States and activities of terrorists or terrorist groups within the United States. The Office also shall identify, in coordination with the Assistant to the President for National Security Affairs, priorities for collection of intelligence outside the United States regarding threats of terrorism within the United States.

(i) In performing these functions, the Office shall work with Federal, State, and local agencies, as appropriate, to:

(A) facilitate collection from State and local governments and private entities of information pertaining to terrorist threats or activities within the United States;

(B) coordinate and prioritize the requirements for foreign intelligence relating to terrorism within the United States of executive departments and agencies responsible for homeland security and provide these requirements and priorities to the Director of Central Intelligence and other agencies responsible for collection of foreign intelligence;

(C) coordinate efforts to ensure that all executive departments and agencies that have intelligence collection responsibilities have sufficient technological capabilities and resources to collect intelligence and data relating to terrorist activities or possible terrorist acts within the United States, working with the Assistant to the President for National Security Affairs, as appropriate;

(D) coordinate development of monitoring protocols and equipment for use in detecting the release of biological, chemical, and radiological hazards; and

(E) ensure that, to the extent permitted by law, all appropriate and necessary intelligence and law enforcement information relating to homeland security is disseminated to and exchanged among appropriate executive departments and agencies responsible for homeland security and, where appropriate for reasons of homeland security, promote exchange of such information with and among State and local governments and private entities.

(ii) Executive departments and agencies shall, to the extent permitted by law, make available to the Office all information relating to terrorist threats and activities within the United States.

(c) *Preparedness*. The Office of Homeland Security shall coordinate national efforts to prepare for and mitigate the consequences of terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) review and assess the adequacy of the portions of all Federal emergency response plans that pertain to terrorist threats or attacks within the United States;

(ii) coordinate domestic exercises and simulations designed to assess and practice systems that would be called upon to respond to a terrorist threat or attack within the United States and coordinate programs and activities for training Federal, State, and local employees who would be called upon to respond to such a threat or attack;

(iii) coordinate national efforts to ensure public health preparedness for a terrorist attack, including reviewing vaccination policies and reviewing the adequacy of and, if necessary, increasing vaccine and pharmaceutical stockpiles and hospital capacity;

(iv) coordinate Federal assistance to State and local authorities and nongovernmental organizations to prepare for and respond to terrorist threats or attacks within the United States;

(v) ensure that national preparedness programs and activities for terrorist threats or attacks are developed and are regularly evaluated under appropriate standards and that resources are allocated to improving and sustaining preparedness based on such evaluations; and

(vi) ensure the readiness and coordinated deployment of Federal response teams to respond to terrorist threats or attacks, working with the Assistant to the President for National Security Affairs, when appropriate.

(d) *Prevention*. The Office shall coordinate efforts to prevent terrorist attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) facilitate the exchange of information among such agencies relating to immigration and visa matters and shipments of cargo; and, working with the Assistant to the President for National Security Affairs, ensure coordination among such agencies to prevent the entry of terrorists and terrorist materials and supplies into the United States and facilitate removal of such terrorists from the United States, when appropriate;

(ii) coordinate efforts to investigate terrorist threats and attacks within the United States; and

(iii) coordinate efforts to improve the security of United States borders, territorial waters, and airspace in order to prevent acts of terrorism within the United States, working with the Assistant to the President for National Security Affairs, when appropriate.

(e) *Protection*. The Office shall coordinate efforts to protect the United States and its critical infrastructure from the consequences of terrorist attacks. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) strengthen measures for protecting energy production, transmission, and distribution services and critical facilities; other utilities; telecommunications; facilities that produce, use, store, or dispose of nuclear material; and other critical infrastructure services and critical facilities within the United States from terrorist attack;

(ii) coordinate efforts to protect critical public and privately owned information systems within the United States from terrorist attack;

(iii) develop criteria for reviewing whether appropriate security measures are in place at major public and privately owned facilities within the United States;

(iv) coordinate domestic efforts to ensure that special events determined by appropriate senior officials to have national significance are protected from terrorist attack;

(v) coordinate efforts to protect transportation systems within the United States, including railways, highways, shipping, ports and waterways, and airports and civilian aircraft, from terrorist attack;

(vi) coordinate efforts to protect United States livestock, agriculture, and systems for the provision of water and food for human use and consumption from terrorist attack; and

(vii) coordinate efforts to prevent unauthorized access to, development of, and unlawful importation into the United States of, chemical, biological, radiological, nuclear, explosive, or other related materials that have the potential to be used in terrorist attacks.

(f) *Response and Recovery*. The Office shall coordinate efforts to respond to and promote recovery from terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) coordinate efforts to ensure rapid restoration of transportation systems, energy production, transmission, and distribution systems; telecommunications; other utilities; and other critical infrastructure facilities after disruption by a terrorist threat or attack;

(ii) coordinate efforts to ensure rapid restoration of public and private critical information systems after disruption by a terrorist threat or attack;

(iii) work with the National Economic Council to coordinate efforts to stabilize United States financial markets after a terrorist threat or attack and manage the immediate economic and financial consequences of the incident;

(iv) coordinate Federal plans and programs to provide medical, financial, and other assistance to victims of terrorist attacks and their families; and

(v) coordinate containment and removal of biological, chemical, radiological, explosive, or other hazardous materials in the event of a terrorist threat or attack involving such hazards and coordinate efforts to mitigate the effects of such an attack.

(g) *Incident Management*. Consistent with applicable law, including the statutory functions of the Secretary of Homeland Security, the Assistant to the President for Homeland Security shall be the official primarily responsible for advising and assisting the President in the coordination of domestic incident management activities of all departments and agencies in the event of a terrorist threat, and during and in the aftermath of terrorist attacks, major disasters, or other emergencies, within the United States. Generally, the Assistant to the President for Homeland Security shall serve as the principal point of contact for and to the President with respect to the coordination of such activities. The Assistant to the President for Homeland Security shall coordinate with the Assistant to the President for National Security Affairs, as appropriate.

(h) *Continuity of Government*. The Assistant to the President for Homeland Security, in coordination with the Assistant to the President for National Security Affairs, shall review plans and preparations for ensuring the continuity of the Federal Government in the event of a terrorist attack that threatens the safety and security of the United States Government or its leadership.

(i) *Public Affairs*. The Office, subject to the direction of the White House Office of Communications, shall coordinate the strategy of the executive branch for communicating with the public in the event of a terrorist threat or attack within the United States. The Office also shall coordinate the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses.

(j) *Cooperation with State and Local Governments and Private Entities*. The Office shall encourage and invite the participation of State and local governments and private entities, as appropriate, in carrying out the Office's functions.

(k) *Review of Legal Authorities and Development of Legislative Proposals*. The Office shall coordinate a periodic review and assessment of the legal authorities available to executive departments and agencies to permit them to perform the functions described in this order. When the Office determines that such legal authorities are inadequate, the Office shall develop, in consultation with executive departments and agencies, proposals for presidential action and legislative proposals for submission to the Office of Management and Budget to enhance the ability of executive departments and agencies to perform those functions. The Office shall work with State and local governments in assessing the adequacy of their legal authorities to permit them to detect, prepare for, prevent, protect against, and recover from terrorist threats and attacks.

(l) *Budget Review*. The Assistant to the President for Homeland Security, in consultation with the Director of the Office of Management and Budget (the ''Director'') and the heads of executive departments and agencies, shall identify programs that contribute to the Administration's strategy for homeland security and, in the development of the President's annual budget submission, shall review and provide advice to the heads of departments and agencies for such programs. The Assistant to the President for Homeland Security shall provide advice to the Director on the level and use of funding in departments and agencies for homeland security-related activities and, prior to the Director's forwarding of the proposed annual budget submission to the President for transmittal to the Congress, shall certify to the Director the funding levels that the Assistant to the President for Homeland Security believes are necessary and appropriate for the homeland security-related activities of the executive branch.

SEC. 4. *Administration*.

(a) The Office of Homeland Security shall be directed by the Assistant to the President for Homeland Security.

(b) The Office of Administration within the Executive Office of the President shall provide the Office of Homeland Security with such personnel, funding, and administrative support, to the extent permitted by law and subject to the availability of appropriations, as directed by the Chief of Staff to carry out the provisions of this order.

(c) Heads of executive departments and agencies are authorized, to the extent permitted by law, to detail or assign personnel of such departments and agencies to the Office of Homeland Security upon request of the Assistant to the President for Homeland Security, subject to the approval of the Chief of Staff.

SEC. 5. *Establishment of Homeland Security Council*.

(a) I hereby establish a Homeland Security Council (the ''Council''), which shall be responsible for advising and assisting the President with respect to all aspects of homeland security. The Council shall serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies.

(b) The Council shall have as its members the President, the Vice President, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Homeland Security, the Director of the Federal Emergency Management Agency, the Director of the Federal Bureau of Investigation, the Director of Central Intelligence, the Assistant to the President for Homeland Security, and such other officers of the executive branch as the President may from time to time designate. The Chief of Staff, the Chief of Staff to the Vice President, the Assistant to the President for National Security Affairs, the Counsel to the President, and the Director of the Office of Management and Budget also are invited to attend any Council meeting. The Secretary of State, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Labor, the Secretary of Commerce, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy shall be invited to attend meetings pertaining to their responsibilities. The heads of other executive departments and agencies and other senior officials shall be invited to attend Council meetings when appropriate.

(c) The Council shall meet at the President's direction. When the President is absent from a meeting of the Council, at the President's direction the Vice President may preside. The Assistant to the President for Homeland Security shall be responsible, at the President's direction, for determining the agenda, ensuring that necessary papers are prepared, and recording Council actions and Presidential decisions.

SEC. 6. *Original Classification Authority*. I hereby delegate the authority to classify information originally as Top Secret, in accordance with Executive Order 12958 [50 U.S.C. 435 note] or any successor Executive Order, to the Assistant to the President for Homeland Security.

SEC. 7. *Continuing Authorities*. This order does not alter the existing authorities of United States Government departments and agencies, including the Department of Homeland Security. All executive departments and agencies are directed to assist the Council and the Assistant to the President for Homeland Security in carrying out the purposes of this order.

SEC. 8. *General Provisions*.

(a) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies or instrumentalities, its officers or employees, or any other person.

(b) References in this order to State and local governments shall be construed to include tribal governments and United States territories and other possessions.

(c) References to the ''United States'' shall be construed to include United States territories and possessions.

SEC. 9. [Amended Ex. Ord. No. 12656, set out as a note under section 5195 of this title.]

GEORGE W. BUSH.

EXECUTIVE ORDER NO. 13260

Ex. Ord. No. 13260, Mar. 19, 2002, 67 F.R. 13241, as amended by Ex. Ord. No. 13286, § 4, Feb. 28, 2003, 68 F.R. 10619, which established the President's Homeland Security Advisory Council and Senior Advisory Committees for Homeland Security, was revoked by Ex. Ord. No. 13286, § 4, Feb. 28, 2003, 68 F.R. 10619, eff. Mar. 31, 2003.

§ 402–1. Joint Intelligence Community Council

(a) Joint Intelligence Community Council

There is a Joint Intelligence Community Council.

(b) Membership

The Joint Intelligence Community Council shall consist of the following:

(1) The Director of National Intelligence, who shall chair the Council.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

(8) Such other officers of the United States Government as the President may designate from time to time.

(c) Functions

The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by—

(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and

(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

(d) Meetings

The Director of National Intelligence shall convene regular meetings of the Joint Intelligence Community Council.

(e) Advice and opinions of members other than Chairman

(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Director of National Intelligence to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

(f) Recommendations to Congress

Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.

(July 26, 1947, ch. 343, title I, § 101A, as added Pub. L. 108–458, title I, § 1031, Dec. 17, 2004, 118 Stat. 3677.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 402a. Coordination of counterintelligence activities

(a) Establishment of Counterintelligence Policy Board

There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the ''Board''). The Board shall report to the President through the National Security Council.

(b) Chairperson

The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 [50 U.S.C. 402b] shall serve as the chairperson of the Board.

(c) Membership

The membership of the National Counterintelligence Policy Board shall consist of the following:

(1) The National Counterintelligence Executive.

(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

(A) The Department of Justice, including the Federal Bureau of Investigation.

(B) The Department of Defense, including the Joint Chiefs of Staff.

(C) The Department of State.

(D) The Department of Energy.

(E) The Central Intelligence Agency.

(F) Any other department, agency, or element of the United States Government specified by the President.

(d) Functions and discharge of functions

(1) The Board shall—

(A) serve as the principal mechanism for—

(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

(B) act as an interagency working group to—

(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

(ii) provide advice to the National Counterintelligence Executive on priorities in the implementation of the National Counterintelligence Strategy produced by the Office of the National Counterintelligence Executive under section 904(e)(2) of that Act [50 U.S.C. 402c(e)(2)].

(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.

(e) Coordination of counterintelligence matters with Federal Bureau of Investigation

(1) Except as provided in paragraph (5), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

(2) Except as provided in paragraph (5), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels in a timely manner to the department or agency concerned, and that such departments or agencies are consulted in a timely manner with respect to espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency.

(3)(A) The Director of the Federal Bureau of Investigation shall submit to the head of the department or agency concerned a written assessment of the potential impact of the actions of the department or agency on a counterintelligence investigation.

(B) The head of the department or agency concerned shall—

(i) use an assessment under subparagraph (A) as an aid in determining whether, and under what circumstances, the subject of an investigation under paragraph (1) should be left in place for investigative purposes; and

(ii) notify in writing the Director of the Federal Bureau of Investigation of such determination.

(C) The Director of the Federal Bureau of Investigation and the head of the department or agency concerned shall continue to consult, as appropriate, to review the status of an investigation covered by this paragraph, and to reassess, as appropriate, a determination of the head of the department or agency concerned to leave a subject in place for investigative purposes.

(4)(A) The Federal Bureau of Investigation shall notify appropriate officials within the executive branch, including the head of the department or agency concerned, of the commencement of a full field espionage investigation with respect to an employee within the executive branch.

(B) A department or agency may not conduct a polygraph examination, interrogate, or otherwise take any action that is likely to alert an employee covered by a notice under subparagraph (A) of an investigation described in that subparagraph without prior coordination and consultation with the Federal Bureau of Investigation.

(5) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1), (2), or (3), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(6) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Depart-

ment of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(7) As used in this section, the terms ''foreign power'' and ''agent of a foreign power'' have the same meanings as set forth in sections[1] 1801(a) and (b), respectively, of this title.

(Pub. L. 103–359, title VIII, § 811, Oct. 14, 1994, 108 Stat. 3455; Pub. L. 106–120, title VI, § 602, Dec. 3, 1999, 113 Stat. 1620; Pub. L. 106–567, title VI, § 605, Dec. 27, 2000, 114 Stat. 2853; Pub. L. 107–306, title VIII, § 811(b)(5)(B), title IX, § 903, Nov. 27, 2002, 116 Stat. 2424, 2433; Pub. L. 108–177, title III, § 361(g), Dec. 13, 2003, 117 Stat. 2625; Pub. L. 108–458, title I, § 1071(g)(1), Dec. 17, 2004, 118 Stat. 3691.)

REFERENCES IN TEXT

The Counterintelligence Enhancement Act of 2002, referred to in subsec. (d)(1)(B)(i), is title IX of Pub. L. 107–306, Nov. 27, 2002, 116 Stat. 2432, which enacted sections 402b and 402c of this title, amended this section, and enacted provisions set out as a note under section 402b of this title. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 401 of this title and Tables.

CODIFICATION

Section was enacted as part of the Counterintelligence and Security Enhancements Act of 1994 and also as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (c)(6)(C). Pub. L. 108–458, which directed amendment of subsec. (c)(6)(C) by substituting ''Director of National Intelligence'' for ''Director of Central Intelligence'', could not be executed because of the amendments by Pub. L. 107–306, § 903(a)(2), and Pub. L. 108–177. See 2002 and 2003 Amendment notes below.

2003—Subsec. (e). Pub. L. 108–177, which directed the amendment of subsec. (c) by redesignating pars. (7) and (8) as (6) and (7), respectively, and striking out former par. (6), was executed by making the amendment to subsec. (e) to reflect the probable intent of Congress and the redesignation of subsec. (c) as (e) by Pub. L. 107–306, § 903(a)(2), see below. Prior to amendment, par. (6) read as follows:

''(6)(A) Not later each year than the date provided in section 415b of this title, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees (as defined in section 401a of this title) a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

''(B) Not later than February 1 each year, the Director shall, in accordance with applicable security procedures, submit to the Committees on the Judiciary of the Senate and House of Representatives a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

''(C) The Director of the Federal Bureau of Investigation shall submit each report under this paragraph in consultation with the Director of Central Intelligence and the Secretary of Defense.''

2002—Subsec. (b). Pub. L. 107–306, § 903(a)(1), (3), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''The Board shall serve as the principal mechanism for—

''(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

''(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.''

Subsec. (c). Pub. L. 107–306, § 903(b), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (c)(6). Pub. L. 107–306, § 811(b)(5)(B), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in accordance with applicable security procedures, the Committees on the Judiciary of the House of Representatives and the Senate with respect to compliance with paragraphs (1) and (2) during the previous calendar year.''

Subsec. (d). Pub. L. 107–306, § 903(c), added subsec. (d).

Subsec. (e). Pub. L. 107–306, § 903(a)(2), redesignated subsec. (c) as (e).

2000—Subsec. (c)(1). Pub. L. 106–567, § 605(a)(1), substituted ''paragraph (5)'' for ''paragraph (3)''.

Subsec. (c)(2). Pub. L. 106–567, § 605(a)(1), (b), substituted ''paragraph (5)'' for ''paragraph (3)'' and inserted ''in a timely manner'' after ''through appropriate channels'' and ''are consulted''.

Subsec. (c)(3). Pub. L. 106–567, § 605(a)(3), added par. (3). Former par. (3) redesignated (5).

Subsec. (c)(4). Pub. L. 106–567, § 605(a), (c), added par. (4). Former par. (4) redesignated (6).

Subsec. (c)(5). Pub. L. 106–567, § 605(a)(2), (4), redesignated par. (3) as (5) and substituted ''paragraph (1), (2), or (3)'' for ''paragraph (1) or (2)''. Former par. (5) redesignated (7).

Subsec. (c)(6) to (8). Pub. L. 106–567, § 605(a)(2), redesignated pars. (4) to (6) as (6) to (8), respectively.

1999—Subsec. (c)(2). Pub. L. 106–120 struck out ''after a report has been provided pursuant to paragraph (1)(A)'' before period at end.

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 401 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 401 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

ANNUAL REPORTS ON INTELLIGENCE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 105–107, title III, § 308, Nov. 20, 1997, 111 Stat. 2253, as amended by Pub. L. 107–306, title VIII, § 811(b)(5)(D), Nov. 27, 2002, 116 Stat. 2424, related to annual reports to Congress by the Director of Central Intelligence and the Director of the Federal Bureau of Investigation on intelligence activities of the People's Republic of China directed against or affecting the interests of the United States, prior to repeal by Pub. L. 108–177, title III, § 361(f), Dec. 13, 2003, 117 Stat. 2625.

§ 402b. National Counterintelligence Executive

(a) Establishment

(1) There shall be a National Counterintelligence Executive, who shall be appointed by the Director of National Intelligence.

(2) It is the sense of Congress that the Director of National Intelligence should seek the views of the Attorney General, Secretary of Defense, and

[1] So in original. Probably should be ''section''.

Director of the Central Intelligence Agency in selecting an individual for appointment as the Executive.

(b) Mission

The mission of the National Counterintelligence Executive shall be to serve as the head of national counterintelligence for the United States Government.

(c) Duties

Subject to the direction and control of the Director of National Intelligence, the duties of the National Counterintelligence Executive are as follows:

(1) To carry out the mission referred to in subsection (b) of this section.

(2) To act as chairperson of the National Counterintelligence Policy Board under section 402a of this title.

(3) To act as head of the Office of the National Counterintelligence Executive under section 402c of this title.

(4) To participate as an observer on such boards, committees, and entities of the executive branch as the Director of National Intelligence considers appropriate for the discharge of the mission and functions of the Executive and the Office of the National Counterintelligence Executive under section 402c of this title.

(Pub. L. 107–306, title IX, § 902, Nov. 27, 2002, 116 Stat. 2432; Pub. L. 108–458, title I, § 1072(d)(1)(B), Dec. 17, 2004, 118 Stat. 3693.)

CODIFICATION

Section was enacted as part of the Counterintelligence Enhancement Act of 2002, and also as part of the Intelligence Authorization Act for Fiscal Year 2003, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

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.

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 401 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 401 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 [enacting this section and section 402c of this title, amending section 402a of this title, and enacting provisions set out as a note under section 401 of this title] 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.''

§ 402c. Office of the National Counterintelligence Executive

(a) Establishment

There shall be an Office of the National Counterintelligence Executive.

(b) Head of Office

The National Counterintelligence Executive shall be the head of the Office of the National Counterintelligence Executive.

(c) Location of Office

The Office of the National Counterintelligence Executive shall be located in the Office of the Director of National Intelligence.

(d) General Counsel

(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.

(e) Functions

Subject to the direction and control of the National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive shall be as follows:

(1) National threat identification and prioritization assessment

Subject to subsection (f) of this section, in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce on an annual basis 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

Subject to subsection (f) of this section, 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 on an annual basis a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(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 agencies 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

In consultation with 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 Office 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 surveys

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.

(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.

(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) of this section, 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) of this section, and any modification of such strategy, shall not go into effect until approved by the President.

(3) The National Counterintelligence Executive 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 Office of the National Counterintelligence Executive may consist of personnel employed by the Office 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 National Counterintelligence Executive and the head of the department, agency, or element concerned consider appropriate.

(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 person-

[1] See References in Text note below.

nel 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.

(h) Support

(1) The Attorney General, Secretary of Defense, and Director of National Intelligence may each provide the Office of the National Counterintelligence Executive such support as may be necessary to permit the Office to carry out its functions under this section.

(2) Subject to any terms and conditions specified by the Director of National Intelligence, the Director may provide administrative and contract support to the Office as if the Office were an element of the Central Intelligence Agency.

(3) Support provided under this subsection may be provided on a reimbursable or nonreimbursable basis, at the election of the official providing such support.

(i) Availability of funds for reimbursement

The National Counterintelligence Executive may, from amounts available for the Office, transfer to a department or agency detailing personnel under subsection (g) of this section, or providing support under subsection (h) of this section, on a reimbursable basis amounts appropriate to reimburse such department or agency for the detail of such personnel or the provision of such support, as the case may be.

(j) Contracts

(1) Subject to paragraph (2), the National Counterintelligence Executive may enter into any contract, lease, cooperative agreement, or other transaction that the Executive considers appropriate to carry out the functions of the Office of the National Counterintelligence Executive under this section.

(2) The authority under paragraph (1) to enter into contracts, leases, cooperative agreements, and other transactions shall be subject to any terms, conditions, and limitations applicable to the Central Intelligence Agency under law with respect to similar contracts, leases, cooperative agreements, and other transactions.

(k) Treatment of activities under certain administrative laws

The files of the 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) 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.

(*l*) Oversight by Congress

The location of the Office of the National Counterintelligence Executive 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 Office; or

(2) any personnel of the Office.

(m) 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.)

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. (m), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was enacted as part of the Counterintelligence Enhancement Act of 2002, and also as part of the Intelligence Authorization Act for Fiscal Year 2003, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

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''.

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 401 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 401 of this title.

§ 403. Director of National Intelligence

(a) Director of National Intelligence

(1) There is a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. Any individual nominated for appointment as Director of National Intelligence shall have extensive national security expertise.

(2) The Director of National Intelligence shall not be located within the Executive Office of the President.

(b) Principal responsibility

Subject to the authority, direction, and control of the President, the Director of National Intelligence shall—

(1) serve as head of the intelligence community;

(2) act as the principal adviser to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and

(3) consistent with section 1018 of the National Security Intelligence Reform Act of 2004, oversee and direct the implementation of the National Intelligence Program.

(c) Prohibition on dual service

The individual serving in the position of Director of National Intelligence shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.

(July 26, 1947, ch. 343, title I, §102, as added Pub. L. 108–458, title I, §1011(a), Dec. 17, 2004, 118 Stat. 3644.)

REFERENCES IN TEXT

Section 1018 of the National Security Intelligence Reform Act of 2004, referred to in subsec. (b)(3), is section 1018 of Pub. L. 108–458, which is set out as a note below.

PRIOR PROVISIONS

A prior section 403, act July 26, 1947, ch. 343, title I, §102, as added and amended Pub. L. 104–293, title VIII, §§805(a), 809(a), 810, 811, Oct. 11, 1996, 110 Stat. 3477, 3481, 3482; Pub. L. 105–107, title IV, §405, Nov. 20, 1997, 111 Stat. 2261; Pub. L. 105–272, title III, §306, Oct. 20, 1998, 112 Stat. 2401, related to Office of the Director of Central Intelligence prior to repeal by Pub. L. 108–458, title I, §§1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See section 403–4a of this title.

Another prior section 403, acts July 26, 1947, ch. 343, title I, §102, 61 Stat. 497; Apr. 4, 1953, ch. 16, 67 Stat. 19; Oct. 24, 1992, Pub. L. 102–496, title VII, §704, 106 Stat. 3189; Jan. 6, 1996, Pub. L. 104–93, title VII, §701, 109 Stat. 977; Feb. 10, 1996, Pub. L. 104–106, div. A, title V, §570, 110 Stat. 353, related to establishment of Central Intelligence Agency and appointment and functions of its Director and Deputy Director prior to repeal by Pub. L. 104–293, title VIII, §805(a), Oct. 11, 1996, 110 Stat. 3477.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

PRESIDENTIAL GUIDELINES ON IMPLEMENTATION AND PRESERVATION OF AUTHORITIES

Pub. L. 108–458, title I, §1018, Dec. 17, 2004, 118 Stat. 3670, provided that: "The President shall issue guidelines to ensure the effective implementation and execution within the executive branch of the authorities granted to the Director of National Intelligence by this title [see Short Title of 2004 Amendment note set out under section 401 of this title] and the amendments made by this title, in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments of the United States Government concerning such departments, including, but not limited to:

"(1) the authority of the Director of the Office of Management and Budget; and

"(2) the authority of the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under—

"(A) section 199 of the Revised Statutes (22 U.S.C. 2651);

"(B) title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.);

"(C) the State Department Basic Authorities Act of 1956 [Act Aug. 1, 1956, ch. 841, see Tables for classification];

"(D) section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)); and

"(E) sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code."

IMPROVEMENT OF EQUALITY OF EMPLOYMENT OPPORTUNITIES IN THE INTELLIGENCE COMMUNITY

Pub. L. 108–177, title III, §319, Dec. 13, 2003, 117 Stat. 2614, as amended by Pub. L. 108–458, title I, §1071(g)(3)(A)(iv), (B), Dec. 17, 2004, 118 Stat. 3692, provided that:

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

"(1) It is the recommendation of the Joint Inquiry of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001, that the Intelligence Community should enhance recruitment of a more ethnically and culturally diverse workforce and devise a strategy to capitalize upon the unique cultural and linguistic capabilities of first generation Americans.

"(2) The Intelligence Community could greatly benefit from an increased number of employees who are proficient in foreign languages and knowledgeable of world cultures, especially in foreign languages that are critical to the national security interests of the United States. Particular emphasis should be given to the recruitment of United States citizens whose linguistic capabilities are acutely required for the improvement of the overall intelligence collection and analysis effort of the United States Government.

"(3) The Intelligence Community has a significantly lower percentage of women and minorities than the total workforce of the Federal government and the total civilian labor force.

"(4) Women and minorities continue to be underrepresented in senior grade levels, and in core mission areas, of the intelligence community.

"(b) PILOT PROJECT TO PROMOTE EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITIES THROUGHOUT THE INTELLIGENCE COMMUNITY USING INNOVATIVE METHODOLOGIES.—The Director of National Intelligence shall carry out a pilot project under this section to test and evaluate alternative, innovative methods to promote equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.

"(c) METHODS.—In carrying out the pilot project, the Director shall employ methods to increase diversity of officers and employees in the intelligence community.

"(d) DURATION OF PROJECT.—The Director shall carry out the project under this section for a 3-year period.

"(e) REPORT.—Not later than 2 years after the date the Director implements the pilot project under this section, the Director shall submit to Congress a report on the project. The report shall include—

"(1) an assessment of the effectiveness of the project; and

"(2) recommendations on the continuation of the project, as well recommendations as for improving the effectiveness of the project in meeting the goals of promoting equality of employment opportunities in the intelligence community for women, minorities, and individuals with diverse ethnic and cultural backgrounds, skills, language proficiency, and expertise.

''(f) DIVERSITY PLAN.—(1) Not later than February 15, 2004, the Director of Central Intelligence shall submit to Congress a report which describes the plan of the Director, entitled the 'DCI Diversity Strategic Plan', and any subsequent revision to that plan, to increase diversity of officers and employees in the intelligence community, including the short- and long-term goals of the plan. The report shall also provide a detailed description of the progress that has been made by each element of the intelligence community in implementing the plan.

''(2) In implementing the plan, the Director of National Intelligence shall incorporate innovative methods for recruitment and hiring that the Director has determined to be effective from the pilot project carried out under this section.

''(g) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4) [401a(4)]).''

REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ

Pub. L. 108–177, title III, § 357, Dec. 13, 2003, 117 Stat. 2621, as amended by Pub. L. 108–458, title I, § 1071(g)(3)(A)(vi), Dec. 17, 2004, 118 Stat. 3692, provided that:

''(a) REPORT.—As soon as possible, but not later than one year after the date of the enactment of this Act [Dec. 13, 2003], the Director of National Intelligence shall submit to the appropriate committees of Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom, including lessons relating to the following:

''(1) The tasking, collection, processing, exploitation, analysis, and dissemination of intelligence.

''(2) The accuracy, timeliness, and objectivity of intelligence analysis.

''(3) The intelligence support available to policymakers and members of the Armed Forces in combat.

''(4) The coordination of intelligence activities and operations with military operations.

''(5) The strengths and limitations of intelligence systems and equipment.

''(6) Such other matters as the Director considers appropriate.

''(b) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations on improvement in the matters described in subsection (a) as the Director considers appropriate.

''(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives; and

''(2) the Select Committee on Intelligence and the Committee on Armed Services of the Senate.''

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Pub. L. 88–643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90–539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91–185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91–626, §§ 1–6, Dec. 31, 1970, 84 Stat. 1872–1874; Pub. L. 93–31, May 8, 1973, 87 Stat. 65; Pub. L. 93–210, § 1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94–361, title VIII, § 801(b), July 14, 1976, 90 Stat. 929; Pub. L. 94–522, title I, §§ 101, 102, title II, §§ 201–213, Oct. 17, 1976, 90 Stat. 2467–2471; Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854; Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 97–269, title VI, §§ 602–611, Sept. 27, 1982, 96 Stat. 1145–1148, 1152–1153; Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 98–618, title III, § 302, Nov. 8, 1984, 98 Stat. 3300; Pub. L. 99–169, title VII, § 702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99–335, title V, §§ 501–506, June 6, 1986, 100 Stat. 622–624; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–569, title III, § 302(a), Oct. 27, 1986, 100 Stat. 3192; Pub. L. 100–178, title IV, §§ 401(a), 402(a), (b)(1), (2), Dec. 2, 1987, 101 Stat. 1012–1014; Pub. L. 100–453, title III, § 302(a), (b)(1), (c)(1), (d)(1), (2), title V, § 502, Sept. 29, 1988, 102 Stat. 1906, 1907, 1909; Pub. L. 101–193, title III, §§ 302–304(a), 307(b), Nov. 30, 1989, 103 Stat. 1703, 1707; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–88, title III, §§ 302–305(a), 306–307(b), Aug. 14, 1991, 105 Stat. 431–433; Pub. L. 102–183, title III, §§ 302(a)–(c), 303(a), 304–306(b), 307, 309(a), 310(a), Dec. 4, 1991, 105 Stat. 1262–1266; Pub. L. 102–496, title III, § 304(b), Oct. 24, 1992, 106 Stat. 3183, known as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, was revised generally by Pub. L. 102–496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3196. As so revised, Pub. L. 88–643, now known as the Central Intelligence Agency Retirement Act, has been transferred to chapter 38 (§ 2001 et seq.) of this title. All notes, Executive orders, and other provisions relating to this Act have been transferred to section 2001 of this title.

EXECUTIVE ORDER NO. 10656

Ex. Ord. No. 10656, Feb. 6, 1956, 21 F.R. 859, which established the President's Board of Consultants on Foreign Intelligence Activities, was revoked by Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, formerly set out below.

EXECUTIVE ORDER NO. 10938

Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, formerly set out below.

EXECUTIVE ORDER NO. 11460

Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, set out below.

EX. ORD. NO. 11984. ABOLITION OF PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12331

Ex. Ord. No. 12331, Oct. 20, 1981, 46 F.R. 51705, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, formerly set out below.

EXECUTIVE ORDER NO. 12537

Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, as amended by Ex. Ord. No. 12624, Jan. 6, 1988, 53 F.R. 489, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, formerly set out as a note under section 401 of this title.

§ 403–1. Responsibilities and authorities of the Director of National Intelligence

(a) Provision of intelligence

(1) The Director of National Intelligence shall be responsible for ensuring that national intelligence is provided—

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

(D) to the Senate and House of Representatives and the committees thereof; and

(E) to such other persons as the Director of National Intelligence determines to be appropriate.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

(b) Access to intelligence

Unless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.

(c) Budget authorities

(1) With respect to budget requests and appropriations for the National Intelligence Program, the Director of National Intelligence shall—

(A) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the intelligence community, and to the heads of such agencies and organizations, guidance for developing the National Intelligence Program budget pertaining to such agencies and organizations;

(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

(C) present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

(2) In addition to the information provided under paragraph (1)(B), the heads of agencies and organizations within the intelligence community shall provide the Director of National Intelligence such other information as the Director shall request for the purpose of determining the annual consolidated National Intelligence Program budget under that paragraph.

(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities.

(B) The Director of National Intelligence shall provide guidance for the development of the annual budget for each element of the intelligence community that is not within the National Intelligence Program.

(4) The Director of National Intelligence shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

(5)(A) The Director of National Intelligence shall be responsible for managing appropriations for the National Intelligence Program by directing the allotment or allocation of such appropriations through the heads of the departments containing agencies or organizations within the intelligence community and the Director of the Central Intelligence Agency, with prior notice (including the provision of appropriate supporting information) to the head of the department containing an agency or organization receiving any such allocation or allotment or the Director of the Central Intelligence Agency.

(B) Notwithstanding any other provision of law, pursuant to relevant appropriations Acts for the National Intelligence Program, the Director of the Office of Management and Budget shall exercise the authority of the Director of the Office of Management and Budget to apportion funds, at the exclusive direction of the Director of National Intelligence, for allocation to the elements of the intelligence community through the relevant host executive departments and the Central Intelligence Agency. Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.

(C) The Director of National Intelligence shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations.

(6) Apportionment and allotment of funds under this subsection shall be subject to chapter 13 and section 1517 of title 31 and the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.).

(7)(A) The Director of National Intelligence shall provide a semi-annual report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

(B) The Director of National Intelligence shall report to the President and the Congress not later than 15 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

(d) Role of Director of National Intelligence in transfer and reprogramming of funds

(1)(A) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the Director of National Intelligence, except in accordance with procedures prescribed by the Director of National Intelligence.

(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(2) Subject to the succeeding provisions of this subsection, the Director of National Intelligence may transfer or reprogram funds appropriated for a program within the National Intelligence Program to another such program.

(3) The Director of National Intelligence may only transfer or reprogram funds referred to in subparagraph (A)—[1]

(A) with the approval of the Director of the Office of Management and Budget; and

(B) after consultation with the heads of departments containing agencies or organizations within the intelligence community to the extent such agencies or organizations are affected, and, in the case of the Central Intelligence Agency, after consultation with the Director of the Central Intelligence Agency.

(4) The amounts available for transfer or reprogramming in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers and reprogrammings, are subject to the provisions of annual appropriations Acts and this subsection.

(5)(A) A transfer or reprogramming of funds or personnel may be made under this subsection only if—

(i) the funds are being transferred to an activity that is a higher priority intelligence activity;

(ii) the transfer or reprogramming supports an emergent need, improves program effectiveness, or increases efficiency;

(iii) the transfer or reprogramming does not involve a transfer or reprogramming of funds to a Reserve for Contingencies of the Director of National Intelligence or the Reserve for Contingencies of the Central Intelligence Agency;

(iv) the transfer or reprogramming results in a cumulative transfer or reprogramming of funds out of any department or agency, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $150,000,000, and

(II) that is less than 5 percent of amounts available to a department or agency under the National Intelligence Program; and

(v) the transfer or reprogramming does not terminate an acquisition program.

(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department or agency involved to the deputy of such officer.

(6) Funds transferred or reprogrammed under this subsection shall remain available for the same period as the appropriations account to which transferred or reprogrammed.

(7) Any transfer or reprogramming of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer or reprogramming for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer or reprogramming and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer or reprogramming of funds made pursuant to this subsection in any case in which the transfer or reprogramming would not have otherwise required reprogramming notification under procedures in effect as of December 17, 2004.

(e) Transfer of personnel

(1)(A) In addition to any other authorities available under law for such purposes, in the first twelve months after establishment of a new national intelligence center, the Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in consultation with the congressional committees of jurisdiction referred to in subparagraph (B), may transfer not more than 100 personnel authorized for elements of the intelligence community to such center.

(B) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

(i) the congressional intelligence committees;

(ii) the Committees on Appropriations of the Senate and the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(C) The Director shall include in any notice under subparagraph (B) an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(2)(A) The Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in accordance with procedures to be developed by the Director of National Intelligence and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for a period of not more than 2 years.

(B) A transfer of personnel may be made under this paragraph only if—

(i) the personnel are being transferred to an activity that is a higher priority intelligence activity; and

(ii) the transfer supports an emergent need, improves program effectiveness, or increases efficiency.

(C) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

(i) the congressional intelligence committees;

(ii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and

(iii) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

[1] So in original. Probably should be ''paragraph (1)(A)—''.

(D) The Director shall include in any notice under subparagraph (C) an explanation of the nature of the transfer and how it satisfies the requirements of this paragraph.

(3) It is the sense of Congress that—

(A) the nature of the national security threats facing the United States will continue to challenge the intelligence community to respond rapidly and flexibly to bring analytic resources to bear against emerging and unforeseen requirements;

(B) both the Office of the Director of National Intelligence and any analytic centers determined to be necessary should be fully and properly supported with appropriate levels of personnel resources and that the President's yearly budget requests adequately support those needs; and

(C) the President should utilize all legal and administrative discretion to ensure that the Director of National Intelligence and all other elements of the intelligence community have the necessary resources and procedures to respond promptly and effectively to emerging and unforeseen national security challenges.

(f) Tasking and other authorities

(1)(A) The Director of National Intelligence shall—

(i) establish objectives, priorities, and guidance for the intelligence community to ensure timely and effective collection, processing, analysis, and dissemination (including access by users to collected data consistent with applicable law and, as appropriate, the guidelines referred to in subsection (b) of this section and analytic products generated by or within the intelligence community) of national intelligence;

(ii) determine requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the intelligence community, including—

(I) approving requirements (including those requirements responding to needs provided by consumers) for collection and analysis; and

(II) resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community; and

(iii) provide advisory tasking to intelligence elements of those agencies and departments not within the National Intelligence Program.

(B) The authority of the Director of National Intelligence under subparagraph (A) shall not apply—

(i) insofar as the President so directs;

(ii) with respect to clause (ii) of subparagraph (A), insofar as the Secretary of Defense exercises tasking authority under plans or arrangements agreed upon by the Secretary of Defense and the Director of National Intelligence; or

(iii) to the direct dissemination of information to State government and local government officials and private sector entities pursuant to sections 121 and 482 of title 6.

(2) The Director of National Intelligence shall oversee the National Counterterrorism Center and may establish such other national intelligence centers as the Director determines necessary.

(3)(A) The Director of National Intelligence shall prescribe, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(i) encourage and facilitate assignments and details of personnel to national intelligence centers, and between elements of the intelligence community;

(ii) set standards for education, training, and career development of personnel of the intelligence community;

(iii) encourage and facilitate the recruitment and retention by the intelligence community of highly qualified individuals for the effective conduct of intelligence activities;

(iv) ensure that the personnel of the intelligence community are sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds;

(v) make service in more than one element of the intelligence community a condition of promotion to such positions within the intelligence community as the Director shall specify; and

(vi) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters.

(B) Policies prescribed under subparagraph (A) shall not be inconsistent with the personnel policies otherwise applicable to members of the uniformed services.

(4) The Director of National Intelligence shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program.

(5) The Director of National Intelligence shall ensure the elimination of waste and unnecessary duplication within the intelligence community.

(6) The Director of National Intelligence shall establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for national intelligence purposes, except that the Director shall have no authority to direct or undertake electronic surveillance or physical search operations pursuant to that Act unless authorized by statute or Executive order.

(7) The Director of National Intelligence shall perform such other functions as the President may direct.

(8) Nothing in this subchapter shall be construed as affecting the role of the Department of Justice or the Attorney General under the Foreign Intelligence Surveillance Act of 1978.

(g) Intelligence information sharing

(1) The Director of National Intelligence shall have principal authority to ensure maximum availability of and access to intelligence information within the intelligence community consistent with national security requirements. The Director of National Intelligence shall—

(A) establish uniform security standards and procedures;

(B) establish common information technology standards, protocols, and interfaces;

(C) ensure development of information technology systems that include multi-level security and intelligence integration capabilities;

(D) establish policies and procedures to resolve conflicts between the need to share intelligence information and the need to protect intelligence sources and methods;

(E) develop an enterprise architecture for the intelligence community and ensure that elements of the intelligence community comply with such architecture; and

(F) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program.

(2) The President shall ensure that the Director of National Intelligence has all necessary support and authorities to fully and effectively implement paragraph (1).

(3) Except as otherwise directed by the President or with the specific written agreement of the head of the department or agency in question, a Federal agency or official shall not be considered to have met any obligation to provide any information, report, assessment, or other material (including unevaluated intelligence information) to that department or agency solely by virtue of having provided that information, report, assessment, or other material to the Director of National Intelligence or the National Counterterrorism Center.

(4) Not later than February 1 of each year, the Director of National Intelligence shall submit to the President and to the Congress an annual report that identifies any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively implement paragraph (1).

(h) Analysis

To ensure the most accurate analysis of intelligence is derived from all sources to support national security needs, the Director of National Intelligence shall—

(1) implement policies and procedures—

(A) to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community;

(B) to ensure that analysis is based upon all sources available; and

(C) to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

(2) ensure that resource allocation for intelligence analysis is appropriately proportional to resource allocation for intelligence collection systems and operations in order to maximize analysis of all collected data;

(3) ensure that differences in analytic judgment are fully considered and brought to the attention of policymakers; and

(4) ensure that sufficient relationships are established between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

(i) Protection of intelligence sources and methods

(1) The Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.

(2) Consistent with paragraph (1), in order to maximize the dissemination of intelligence, the Director of National Intelligence shall establish and implement guidelines for the intelligence community for the following purposes:

(A) Classification of information under applicable law, Executive orders, or other Presidential directives.

(B) Access to and dissemination of intelligence, both in final form and in the form when initially gathered.

(C) Preparation of intelligence products in such a way that source information is removed to allow for dissemination at the lowest level of classification possible or in unclassified form to the extent practicable.

(3) The Director may only delegate a duty or authority given the Director under this subsection to the Principal Deputy Director of National Intelligence.

(j) Uniform procedures for sensitive compartmented information

The Director of National Intelligence, subject to the direction of the President, shall—

(1) establish uniform standards and procedures for the grant of access to sensitive compartmented information to any officer or employee of any agency or department of the United States and to employees of contractors of those agencies or departments;

(2) ensure the consistent implementation of those standards and procedures throughout such agencies and departments;

(3) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by those agencies; and

(4) ensure that the process for investigation and adjudication of an application for access to sensitive compartmented information is performed in the most expeditious manner possible consistent with applicable standards for national security.

(k) Coordination with foreign governments

Under the direction of the President and in a manner consistent with section 3927 of title 22, the Director of National Intelligence shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

***(l)* Enhanced personnel management**

(1)(A) The Director of National Intelligence shall, under regulations prescribed by the Direc-

tor, provide incentives for personnel of elements of the intelligence community to serve—

(i) on the staff of the Director of National Intelligence;

(ii) on the staff of the national intelligence centers;

(iii) on the staff of the National Counterterrorism Center; and

(iv) in other positions in support of the intelligence community management functions of the Director.

(B) Incentives under subparagraph (A) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(2)(A) Notwithstanding any other provision of law, the personnel of an element of the intelligence community who are assigned or detailed under paragraph (1)(A) to service under the Director of National Intelligence shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(B) The Director may prescribe regulations to carry out this section.

(3)(A) The Director of National Intelligence shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.

(B) The mechanisms prescribed under subparagraph (A) may include the following:

(i) The establishment of special occupational categories involving service, over the course of a career, in more than one element of the intelligence community.

(ii) The provision of rewards for service in positions undertaking analysis and planning of operations involving two or more elements of the intelligence community.

(iii) The establishment of requirements for education, training, service, and evaluation for service involving more than one element of the intelligence community.

(C) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate for civilian personnel within the intelligence community the joint officer management policies established by chapter 38 of title 10 and the other amendments made by title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433).

(4)(A) Except as provided in subparagraph (B) and subparagraph (D), this subsection shall not apply with respect to personnel of the elements of the intelligence community who are members of the uniformed services.

(B) Mechanisms that establish requirements for education and training pursuant to paragraph (3)(B)(iii) may apply with respect to members of the uniformed services who are assigned to an element of the intelligence community funded through the National Intelligence Program, but such mechanisms shall not be inconsistent with personnel policies and education and training requirements otherwise applicable to members of the uniformed services.

(C) The personnel policies and programs developed and implemented under this subsection with respect to law enforcement officers (as that term is defined in section 5541(3) of title 5) shall not affect the ability of law enforcement entities to conduct operations or, through the applicable chain of command, to control the activities of such law enforcement officers.

(D) Assignment to the Office of the Director of National Intelligence of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer management policies prescribed by chapter 38 of title 10 and other provisions of that title.

(m) Additional authority with respect to personnel

(1) In addition to the authorities under subsection (f)(3) of this section, the Director of National Intelligence may exercise with respect to the personnel of the Office of the Director of National Intelligence any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of December 17, 2004, to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(2) Employees and applicants for employment of the Office of the Director of National Intelligence shall have the same rights and protections under the Office of the Director of National Intelligence as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949 [50 U.S.C. 403a et seq.], and other applicable provisions of law, as of December 17, 2004.

(n) Acquisition authorities

(1) In carrying out the responsibilities and authorities under this section, the Director of National Intelligence may exercise the acquisition and appropriations authorities referred to in the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) other than the authorities referred to in section 8(b) of that Act (50 U.S.C. 403j(b)).

(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be deemed to be a reference to the Director of National Intelligence or the Principal Deputy Director of National Intelligence.

(3)(A) Any determination or decision to be made under an authority referred to in paragraph (1) by the head of an agency may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final.

(B) Except as provided in subparagraph (C), the Director of National Intelligence or the Principal Deputy Director of National Intelligence may, in such official's discretion, delegate to any officer or other official of the Office of the Director of National Intelligence any authority to make a determination or decision as

the head of the agency under an authority referred to in paragraph (1).

(C) The limitations and conditions set forth in section 3(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(d)) shall apply to the exercise by the Director of National Intelligence of an authority referred to in paragraph (1).

(D) Each determination or decision required by an authority referred to in the second sentence of section 3(d) of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403c(d)] shall be based upon written findings made by the official making such determination or decision, which findings shall be final and shall be available within the Office of the Director of National Intelligence for a period of at least six years following the date of such determination or decision.

(*o*) Consideration of views of elements of intelligence community

In carrying out the duties and responsibilities under this section, the Director of National Intelligence shall take into account the views of a head of a department containing an element of the intelligence community and of the Director of the Central Intelligence Agency.

(p) Responsibility of Director of National Intelligence regarding National Intelligence Program budget concerning the Department of Defense

Subject to the direction of the President, the Director of National Intelligence shall, after consultation with the Secretary of Defense, ensure that the National Intelligence Program budgets for the elements of the intelligence community that are within the Department of Defense are adequate to satisfy the national intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, and wherever such elements are performing Government-wide functions, the needs of other Federal departments and agencies.

(q) Acquisitions of major systems

(1) For each intelligence program within the National Intelligence Program for the acquisition of a major system, the Director of National Intelligence shall—

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria, except that with respect to Department of Defense programs the Director shall consult with the Secretary of Defense;

(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

(C) periodically—

(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and

(ii) submit to Congress a report on the results of such review and assessment.

(2) If the Director of National Intelligence and the Secretary of Defense are unable to reach an agreement on a milestone decision under paragraph (1)(B), the President shall resolve the conflict.

(3) Nothing in this subsection may be construed to limit the authority of the Director of National Intelligence to delegate to any other official any authority to perform the responsibilities of the Director under this subsection.

(4) In this subsection:

(A) The term ''intelligence program'', with respect to the acquisition of a major system, means a program that—

(i) is carried out to acquire such major system for an element of the intelligence community; and

(ii) is funded in whole out of amounts available for the National Intelligence Program.

(B) The term ''major system'' has the meaning given such term in section 403(9) of title 41.

(r) Performance of common services

The Director of National Intelligence shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the Director of National Intelligence determines can be more efficiently accomplished in a consolidated manner.

(July 26, 1947, ch. 343, title I, § 102A, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3644.)

REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (c)(6), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (f)(6), (8), is Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

This subchapter, referred to in subsec. (f)(8), was in the original ''this title'', meaning title I of act July 26, 1947, ch. 343, 61 Stat. 496, as amended, which is classified generally to this subchapter. For complete classification of title I to the Code, see Tables.

The Goldwater-Nichols Department of Defense Reorganization Act of 1986, referred to in subsec. (*l*)(3)(C), is Pub. L. 99–433, Oct. 1, 1986, 100 Stat. 992, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 111 of Title 10, Armed Forces, and Tables.

The Central Intelligence Agency Act of 1949, referred to in subsecs. (m) and (n)(1), is act June 20, 1949, ch. 227, 63 Stat. 208, as amended, which is classified generally to section 403a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 403a of this title and Tables.

PRIOR PROVISIONS

A prior section 403–1, act July 26, 1947, ch. 343, title I, § 102A, as added Pub. L. 104–293, title VIII, § 805(b), Oct.

11, 1996, 110 Stat. 3479, provided there is a Central Intelligence Agency and described its function prior to repeal by Pub. L. 108–458, title I, §§1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See section 403–4 of this title.

Another prior section 403–1, act July 26, 1947, ch. 343, title I, §102a, as added Dec. 9, 1983, Pub. L. 98–215, title IV, §403, 97 Stat. 1477, related to appointment of Director of the Intelligence Community Staff prior to repeal by Pub. L. 102–496, title VII, §705(a)(1), Oct. 24, 1992, 106 Stat. 3190.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY

Pub. L. 108–458, title I, §1013, Dec. 17, 2004, 118 Stat. 3662, provided that:

''(a) DEVELOPMENT OF PROCEDURES.—The Director of National Intelligence, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

''(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

''(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

''(B) exchange of information between the Secretary and the Director of the Central Intelligence Agency to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

''(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, a mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

''(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act [Dec. 17, 2004], the Director of National Intelligence shall submit to the congressional defense committees (as defined in section 101 of title 10, United States Code) and the congressional intelligence committees (as defined in section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7))) a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.''

ALTERNATIVE ANALYSIS OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY

Pub. L. 108–458, title I, §1017, Dec. 17, 2004, 118 Stat. 3670, provided that:

''(a) IN GENERAL.—Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see Effective Date of 2004 Amendment; Transition Provisions note set out under section 401 of this title], the Director of National Intelligence shall establish a process and assign an individual or entity the responsibility for ensuring that, as appropriate, elements of the intelligence community conduct alternative analysis (commonly referred to as 'red-team analysis') of the information and conclusions in intelligence products.

''(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives on the implementation of subsection (a).''

REQUIREMENT FOR EFFICIENT USE BY INTELLIGENCE COMMUNITY OF OPEN-SOURCE INTELLIGENCE

Pub. L. 108–458, title I, §1052(b), Dec. 17, 2004, 118 Stat. 3683, provided that: ''The Director of National Intelligence shall ensure that the intelligence community makes efficient and effective use of open-source information and analysis.''

ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS

Pub. L. 108–458, title VII, §7201(e), Dec. 17, 2004, 118 Stat. 3813, provided that:

''(1) IN GENERAL.—The Director of National Intelligence shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.''

INTELLIGENCE COMMUNITY USE OF NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

Pub. L. 108–458, title VIII, §8101, Dec. 17, 2004, 118 Stat. 3864, provided that:

''(a) IN GENERAL.—The Director of National Intelligence shall establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.

''(b) PURPOSE.—The purpose of the relationship under subsection (a) shall be to permit the intelligence community to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.''

PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY

Pub. L. 108–177, title III, §317, Dec. 13, 2003, 117 Stat. 2611, as amended by Pub. L. 108–458, title I, §§1071(g)(3)(A)(i), (ii), 1072(d)(2)(A), Dec. 17, 2004, 118 Stat. 3692, 3693, provided that:

''(a) IN GENERAL.—The Director of National Intelligence shall, in coordination with the Secretary of Defense, carry out a pilot program to assess the feasibility and advisability of permitting intelligence analysts of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).

''(b) COVERED INTELLIGENCE.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:

''(1) Signals intelligence of the National Security Agency.

''(2) Such intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program.

''(c) OBJECTIVES.—The objectives set forth in this subsection are as follows:

''(1) To enhance the capacity of the intelligence community to undertake 'all source fusion' analysis in support of the intelligence and intelligence-related missions of the intelligence community.

''(2) To reduce, to the extent possible, the amount of intelligence collected by the intelligence community that is not assessed, or reviewed, by intelligence analysts.

''(3) To reduce the burdens imposed on analytical personnel of the elements of the intelligence community by current practices regarding the sharing of intelligence among elements of the intelligence community.

''(d) COMMENCEMENT.—The Director shall commence the pilot program under subsection (a) not later than December 31, 2003.

''(e) VARIOUS MECHANISMS REQUIRED.—In carrying out the pilot program under subsection (a), the Director shall develop and utilize various mechanisms to facilitate the access to, and the analysis of, intelligence in the databases of the intelligence community by intelligence analysts of other elements of the intelligence community, including the use of so-called 'detailees in place'.

''(f) SECURITY.—(1) In carrying out the pilot program under subsection (a), the Director shall take appropriate actions to protect against the disclosure and unauthorized use of intelligence in the databases of the elements of the intelligence community which may endanger sources and methods which (as determined by the Director) warrant protection.

''(2) The actions taken under paragraph (1) shall include the provision of training on the accessing and handling of information in the databases of various elements of the intelligence community and the establishment of limitations on access to information in such databases regarding United States persons.

''(g) ASSESSMENT.—Not later than February 1, 2004, after the commencement under subsection (d) of the pilot program under subsection (a), the Under Secretary of Defense for Intelligence and the Deputy Director of National Intelligence shall jointly carry out an assessment of the progress of the pilot program in meeting the objectives set forth in subsection (c).

''(h) REPORT.—(1) The Director of National Intelligence shall, in coordination with the Secretary of Defense, submit to the appropriate committees of Congress a report on the assessment carried out under subsection (g).

''(2) The report shall include—

''(A) a description of the pilot program under subsection (a);

''(B) the findings of the Under Secretary and Assistant Director [Deputy Director of National Intelligence] as a result of the assessment;

''(C) any recommendations regarding the pilot program that the Under Secretary and the Deputy Director of National Intelligence jointly consider appropriate in light of the assessment; and

''(D) any recommendations that the Director and Secretary consider appropriate for purposes of the report.

''(i) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

''(2) the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.''

STANDARDIZED TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET

Pub. L. 107–306, title III, § 352, Nov. 27, 2002, 116 Stat. 2401, as amended by Pub. L. 108–458, title I, § 1071(g)(2)(D), Dec. 17, 2004, 118 Stat. 3691, provided that:

''(a) METHOD OF TRANSLITERATION REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 27, 2002], the Director of Central Intelligence shall provide for a standardized method for transliterating into the Roman alphabet personal and place names originally rendered in any language that uses an alphabet other than the Roman alphabet.

''(b) USE BY INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure the use of the method established under subsection (a) in—

''(1) all communications among the elements of the intelligence community; and

''(2) all intelligence products of the intelligence community.''

STANDARDS FOR SPELLING OF FOREIGN NAMES AND PLACES AND FOR USE OF GEOGRAPHIC COORDINATES

Pub. L. 105–107, title III, § 309, Nov. 20, 1997, 111 Stat. 2253, provided that:

''(a) SURVEY OF CURRENT STANDARDS.—

''(1) SURVEY.—The Director of Central Intelligence shall carry out a survey of current standards for the spelling of foreign names and places, and the use of geographic coordinates for such places, among the elements of the intelligence community.

''(2) REPORT.—Not later than 90 days after the date of enactment of this Act [Nov. 20, 1997], the Director shall submit to the congressional intelligence committees a report on the survey carried out under paragraph (1). The report shall be submitted in unclassified form, but may include a classified annex.

''(b) GUIDELINES.—

''(1) ISSUANCE.—Not later than 180 days after the date of enactment of this Act, the Director shall issue guidelines to ensure the use of uniform spelling of foreign names and places and the uniform use of geographic coordinates for such places. The guidelines shall apply to all intelligence reports, intelligence products, and intelligence databases prepared and utilized by the elements of the intelligence community.

''(2) BASIS.—The guidelines under paragraph (1) shall, to the maximum extent practicable, be based on current United States Government standards for the transliteration of foreign names, standards for foreign place names developed by the Board on Geographic Names, and a standard set of geographic coordinates.

''(3) SUBMITTAL TO CONGRESS.—The Director shall submit a copy of the guidelines to the congressional intelligence committees.

''(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means the following:

''(1) The Select Committee on Intelligence of the Senate.

''(2) The Permanent Select Committee on Intelligence of the House of Representatives.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

PERIODIC REPORTS ON EXPENDITURES

Pub. L. 104–293, § 807(c), Oct. 11, 1996, 110 Stat. 3480, provided that: ''Not later than January 1, 1997, the Director of Central Intelligence and the Secretary of Defense shall prescribe guidelines to ensure prompt reporting to the Director and the Secretary on a periodic basis of budget execution data for all national, defense-wide, and tactical intelligence activities.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the

Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

DATABASE PROGRAM TRACKING

Pub. L. 104–293, title VIII, § 807(d), Oct. 11, 1996, 110 Stat. 3481, provided that: ''Not later than January 1, 1999, the Director of Central Intelligence and the Secretary of Defense shall develop and implement a database to provide timely and accurate information on the amounts, purposes, and status of the resources, including periodic budget execution updates, for all national, defense-wide, and tactical intelligence activities.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET

Pub. L. 103–359, title VI, § 603, Oct. 14, 1994, 108 Stat. 3433, provided that: ''The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

§ 403–1a. Assignment of responsibilities relating to analytic integrity

(a) Assignment of responsibilities

For purposes of carrying out section 403–1(h) of this title, the Director of National Intelligence shall, not later than 180 days after December 17, 2004, assign an individual or entity to be responsible for ensuring that finished intelligence products produced by any element or elements of the intelligence community are timely, objective, independent of political considerations, based upon all sources of available intelligence, and employ the standards of proper analytic tradecraft.

(b) Responsibilities

(1) The individual or entity assigned responsibility under subsection (a) of this section—

(A) may be responsible for general oversight and management of analysis and production, but may not be directly responsible for, or involved in, the specific production of any finished intelligence product;

(B) shall perform, on a regular basis, detailed reviews of finished intelligence product or other analytic products by an element or elements of the intelligence community covering a particular topic or subject matter;

(C) shall be responsible for identifying on an annual basis functional or topical areas of analysis for specific review under subparagraph (B); and

(D) upon completion of any review under subparagraph (B), may draft lessons learned, identify best practices, or make recommendations for improvement to the analytic tradecraft employed in the production of the reviewed product or products.

(2) Each review under paragraph (1)(B) should—

(A) include whether the product or products concerned were based on all sources of available intelligence, properly describe the quality and reliability of underlying sources, properly caveat and express uncertainties or confidence in analytic judgments, properly distinguish between underlying intelligence and the assumptions and judgments of analysts, and incorporate, where appropriate, alternative analyses; and

(B) ensure that the analytic methodologies, tradecraft, and practices used by the element or elements concerned in the production of the product or products concerned meet the standards set forth in subsection (a) of this section.

(3) Information drafted under paragraph (1)(D) should, as appropriate, be included in analysis teaching modules and case studies for use throughout the intelligence community.

(c) Annual reports

Not later than December 1 each year, the Director of National Intelligence shall submit to the congressional intelligence committees, the heads of the relevant elements of the intelligence community, and the heads of analytic training departments a report containing a description, and the associated findings, of each review under subsection (b)(1)(B) of this section during such year.

(d) Congressional intelligence committees defined

In this section, the term ''congressional intelligence committees'' means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 108–458, title I, § 1019, Dec. 17, 2004, 118 Stat. 3671.)

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the National Security Intelligence Reform Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

SAFEGUARD OF OBJECTIVITY IN INTELLIGENCE ANALYSIS

Pub. L. 108–458, title I, § 1020, Dec. 17, 2004, 118 Stat. 3672, provided that:

''(a) IN GENERAL.—Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108–458, see Effective Date of 2004 Amendment; Transition Provisions note set out under section 401 of this title], the Director of National Intelligence shall identify an individual within the Office of the Director of National Intelligence who shall be available to analysts within the Office of the Director of National Intelligence to counsel, conduct arbitration, offer recommendations, and, as appropriate, initiate inquiries into real or perceived problems of analytic tradecraft or politicization, biased reporting, or lack of objectivity in intelligence analysis.

''(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the implementation of subsection (a).''

§ 403–1b. Additional education and training requirements

(a) Findings

Congress makes the following findings:

(1) Foreign language education is essential for the development of a highly-skilled workforce for the intelligence community.

(2) Since September 11, 2001, the need for language proficiency levels to meet required national security functions has been raised, and the ability to comprehend and articulate technical and scientific information in foreign languages has become critical.

(b) Linguistic requirements

(1) The Director of National Intelligence shall—

(A) identify the linguistic requirements for the Office of the Director of National Intelligence;

(B) identify specific requirements for the range of linguistic skills necessary for the intelligence community, including proficiency in scientific and technical vocabularies of critical foreign languages; and

(C) develop a comprehensive plan for the Office to meet such requirements through the education, recruitment, and training of linguists.

(2) In carrying out activities under paragraph (1), the Director shall take into account education grant programs of the Department of Defense and the Department of Education that are in existence as of December 17, 2004.

(3) Not later than one year after December 17, 2004, and annually thereafter, the Director shall submit to Congress a report on the requirements identified under paragraph (1), including the success of the Office of the Director of National Intelligence in meeting such requirements. Each report shall notify Congress of any additional resources determined by the Director to be required to meet such requirements.

(4) Each report under paragraph (3) shall be in unclassified form, but may include a classified annex.

(c) Professional intelligence training

The Director of National Intelligence shall require the head of each element and component within the Office of the Director of National Intelligence who has responsibility for professional intelligence training to periodically review and revise the curriculum for the professional intelligence training of the senior and intermediate level personnel of such element or component in order to—

(1) strengthen the focus of such curriculum on the integration of intelligence collection and analysis throughout the Office; and

(2) prepare such personnel for duty with other departments, agencies, and elements of the intelligence community.

(Pub. L. 108–458, title I, § 1041, Dec. 17, 2004, 118 Stat. 3678.)

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the National Security Intelligence Reform Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

PILOT PROJECT ON CIVILIAN LINGUIST RESERVE CORPS

Pub. L. 109–364, div. A, title IX, § 944(a)(1), Oct. 17, 2006, 120 Stat. 2366, provided that: ''Administration of the pilot project on the establishment of a Civilian Linguist Reserve Corps required by section 613 of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–487; 118 Stat. 3959; 50 U.S.C. 403–1b note) is hereby transferred from the Director of National Intelligence to the Secretary of Defense.''

Pub. L. 109–163, div. A, title XI, § 1124, Jan. 6, 2006, 119 Stat. 3454, provided that: ''Subject to the availability of appropriated funds, the Secretary of Defense may support implementation of the Civilian Linguist Reserve Corps pilot project authorized by section 613 of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–487; 118 Stat. 3959; 50 U.S.C. 403–1b note).''

Pub. L. 108–487, title VI, § 613, Dec. 23, 2004, 118 Stat. 3959, as amended by Pub. L. 109–364, div. A, title IX, § 944(a)(2), (b)–(e), Oct. 17, 2006, 120 Stat. 2366, provided that:

''(a) PILOT PROJECT.—(1) The Secretary of Defense shall conduct a pilot project to assess the feasibility and advisability of establishing a Civilian Linguist Reserve Corps comprised of United States citizens with advanced levels of proficiency in foreign languages who would be available upon the call of the Secretary to perform such service or duties with respect to such foreign languages in the intelligence community as the Secretary may specify.

''(2) The Secretary shall conduct the pilot project in coordination with the Director of National Intelligence.

''(3) The Secretary shall conduct the pilot project through the National Security Education Program.

''(b) CONDUCT OF PROJECT.—Taking into account the findings and recommendations contained in the report

required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), in conducting the pilot project under subsection (a) the Secretary of Defense shall—

''(1) identify several foreign languages that are critical for the national security of the United States;

''(2) identify United States citizens with advanced levels of proficiency in the foreign languages identified under paragraph (1) who would be available to perform the services and duties referred to in subsection (a); and

''(3) when considered necessary by the Secretary, implement a call for the performance of such services and duties.

''(c) DURATION OF PROJECT.—The pilot project under subsection (a) shall be conducted for a five-year period.

''(d) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary of Defense may enter into contracts with appropriate agencies or entities to carry out the pilot project under subsection (a).

''(e) REPORTS.—(1) The Secretary of Defense shall submit to Congress an initial and a final report on the pilot project conducted under subsection (a).

''(2) Each report required under paragraph (1) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

''(3) The final report shall be submitted not later than six months after the completion of the pilot project.''

§ 403–1c. National Intelligence Reserve Corps

(a) Establishment

The Director of National Intelligence may provide for the establishment and training of a National Intelligence Reserve Corps (in this section referred to as ''National Intelligence Reserve Corps'') for the temporary reemployment on a voluntary basis of former employees of elements of the intelligence community during periods of emergency, as determined by the Director.

(b) Eligible individuals

An individual may participate in the National Intelligence Reserve Corps only if the individual previously served as a full time employee of an element of the intelligence community.

(c) Terms of participation

The Director of National Intelligence shall prescribe the terms and conditions under which eligible individuals may participate in the National Intelligence Reserve Corps.

(d) Expenses

The Director of National Intelligence may provide members of the National Intelligence Reserve Corps transportation and per diem in lieu of subsistence for purposes of participating in any training that relates to service as a member of the Reserve Corps.

(e) Treatment of annuitants

(1) If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby.

(2) An annuitant so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5.

(f) Treatment under Office of Director of National Intelligence personnel ceiling

A member of the National Intelligence Reserve Corps who is reemployed on a temporary basis pursuant to this section shall not count against any personnel ceiling applicable to the Office of the Director of National Intelligence.

(Pub. L. 108–458, title I, § 1053, Dec. 17, 2004, 118 Stat. 3683.)

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the National Security Intelligence Reform Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–2. Intelligence Community contracting

The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States. For purposes of this provision, the term ''Intelligence Community'' has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

(Pub. L. 102–183, title IV, § 403, Dec. 4, 1991, 105 Stat. 1267.)

REFERENCES IN TEXT

Executive Order 12333, referred to in text, is set out as a note under section 401 of this title.

CODIFICATION

Section was enacted as part of the authorization act cited as the credit to this section, and not as part of the National Security Act of 1947 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act: Pub. L. 102–88, title IV, § 404, Aug. 14, 1991, 105 Stat. 434.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

§ 403–2a. Construction of intelligence community facilities; Presidential authorization

(a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of $300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President's annual fiscal year budget request or otherwise specifically authorized and appropriated if such facility or improvement would be used primarily by personnel of the intelligence community.

(b) As used in this section, the term ''intelligence community'' has the same meaning given that term in section 401a(4) of this title.

(Pub. L. 103–335, title VIII, § 8131, Sept. 30, 1994, 108 Stat. 2653.)

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403–2b. Limitation on construction of facilities to be used primarily by intelligence community

(a) In general

(1) In general

Except as provided in subsection (b) of this section, no project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost in excess of $5,000,000 may be undertaken in any fiscal year unless such project is specifically identified as a separate item in the President's annual fiscal year budget request and is specifically authorized by the Congress.

(2) Notification

In the case of a project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost greater than $1,000,000 but less than $5,000,000, or where any improvement project to such a facility has an estimated Federal cost greater than $1,000,000, the Director of Central Intelligence shall submit a notification to the intelligence committees specifically identifying such project.

(b) Exception

(1) In general

Notwithstanding subsection (a) of this section but subject to paragraphs (2) and (3), a project for the construction of a facility to be used primarily by personnel of any component of the intelligence community may be carried out if the Secretary of Defense and the Director of Central Intelligence jointly determine—

(A) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and

(B) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Act authorizing appropriations for the intelligence community would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) Report

(A) When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of Central Intelligence jointly shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (i) the justification for the project and the current estimate of the cost of the project, (ii) the justification for carrying out the project under this subsection, and (iii) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 7-day period beginning on the date the notification is received by such committees.

(B) Notwithstanding subparagraph (A), a project referred to in paragraph (1) may begin on the date the notification is received by the appropriate committees of Congress under that paragraph if the Director of Central Intelligence and the Secretary of Defense jointly determine that—

(i) an emergency exists with respect to the national security or the protection of health, safety, or environmental quality; and

(ii) any delay in the commencement of the project would harm any or all of those interests.

(3) Projects primarily for CIA

If a project referred to in paragraph (1) is primarily for the Central Intelligence Agency, the Director of Central Intelligence shall make the determination and submit the report required by paragraphs (1) and (2).

(4) Limitation

A project carried out under this subsection shall be carried out within the total amount of funds appropriated for intelligence and intelligence-related activities that have not been obligated.

(c) Application

This section shall not apply to any project which is subject to subsection (a)(1)(A) or (c) of section 601.

(Pub. L. 103–359, title VI, § 602, Oct. 14, 1994, 108 Stat. 3432; Pub. L. 108–177, title III, § 314, Dec. 13, 2003, 117 Stat. 2610.)

REFERENCES IN TEXT

Section 601, referred to in subsec. (c), means section 601 of Pub. L. 103–359, title VI, Oct. 14, 1994, 108 Stat. 3431, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1995, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–177, § 314(a), substituted ''$5,000,000'' for ''$750,000'' in pars. (1) and (2) and ''$1,000,000'' for ''$500,000'' in two places in par. (2).

Subsec. (b)(2). Pub. L. 108–177, § 314(b), designated existing provisions as subpar. (A), redesignated former

subpars. (A) to (C) as cls. (i) to (iii), respectively, substituted ''7-day period'' for ''21-day period'', and added subpar. (B).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

DEFINITIONS

Section 604 of title VI of Pub. L. 103–359 provided that: ''As used in this title [enacting this section and provisions set out as a note under section 403–3 of this title]:

''(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) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''

§ 403–3. Office of the Director of National Intelligence

(a) Office of Director of National Intelligence

There is an Office of the Director of National Intelligence.

(b) Function

The function of the Office of the Director of National Intelligence is to assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director under this Act, the National Security Act of 1947 (50 U.S.C. 401 et seq.), and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.

(c) Composition

The Office of the Director of National Intelligence is composed of the following:

(1) The Director of National Intelligence.

(2) The Principal Deputy Director of National Intelligence.

(3) Any Deputy Director of National Intelligence appointed under section 403–3a of this title.

(4) The National Intelligence Council.

(5) The General Counsel.

(6) The Civil Liberties Protection Officer.

(7) The Director of Science and Technology.

(8) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).

(9) Such other offices and officials as may be established by law or the Director may establish or designate in the Office, including national intelligence centers.

(d) Staff

(1) To assist the Director of National Intelligence in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the Director of National Intelligence a professional staff having an expertise in matters relating to such duties and responsibilities, and may establish permanent positions and appropriate rates of pay with respect to that staff.

(2) The staff of the Office of the Director of National Intelligence under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the Director of National Intelligence under section 1091 of the National Security Intelligence Reform Act of 2004.

(e) Limitation on co-location with other elements of intelligence community

Commencing as of October 1, 2008, the Office of the Director of National Intelligence may not be co-located with any other element of the intelligence community.

(July 26, 1947, ch. 343, title I, § 103, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3655.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), probably means Pub. L. 108–458, Dec. 17, 2004, 118 Stat. 3638, known as the Intelligence Reform and Terrorism Prevention Act of 2004. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 401 of this title and Tables.

The National Security Act of 1947, referred to in subsec. (b), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Section 1091 of the National Security Intelligence Reform Act of 2004, referred to in subsec. (d)(2), is section 1091 of Pub. L. 108–458, which is set out as a note under section 401 of this title.

PRIOR PROVISIONS

A prior section 403–3, act July 26, 1947, ch. 343, title I, § 103, as added Pub. L. 102–496, title VII, § 705(a)(3), Oct. 24, 1992, 106 Stat. 3190; amended Pub. L. 103–178, title V, § 502, Dec. 3, 1993, 107 Stat. 2038; Pub. L. 104–293, title VIII, §§ 806, 807(a), Oct. 11, 1996, 110 Stat. 3479, 3480; Pub. L. 107–56, title IX, § 901, Oct. 26, 2001, 115 Stat. 387, related to responsibilities of Director of Central Intelligence, prior to repeal by Pub. L. 108–458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See sections 403–1 and 403–4a of this title.

Another prior section 103 of act July 26, 1947, was renumbered section 107 and is classified to section 404 of this title.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3a. Deputy Directors of National Intelligence

(a) Principal Deputy Director of National Intelligence

(1) There is a Principal Deputy Director of National Intelligence who shall be appointed by

the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in the position of Principal Deputy Director of National Intelligence, the Director of National Intelligence shall recommend to the President an individual for appointment as Principal Deputy Director of National Intelligence.

(3) Any individual nominated for appointment as Principal Deputy Director of National Intelligence shall have extensive national security experience and management expertise.

(4) The individual serving as Principal Deputy Director of National Intelligence shall not, while so serving, serve in any capacity in any other element of the intelligence community.

(5) The Principal Deputy Director of National Intelligence shall assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director.

(6) The Principal Deputy Director of National Intelligence shall act for, and exercise the powers of, the Director of National Intelligence during the absence or disability of the Director of National Intelligence or during a vacancy in the position of Director of National Intelligence.

(b) Deputy Directors of National Intelligence

(1) There may be not more than four Deputy Directors of National Intelligence who shall be appointed by the Director of National Intelligence.

(2) Each Deputy Director of National Intelligence appointed under this subsection shall have such duties, responsibilities, and authorities as the Director of National Intelligence may assign or are specified by law.

(c) Military status of Director of National Intelligence and Principal Deputy Director of National Intelligence

(1) Not more than one of the individuals serving in the positions specified in paragraph (2) may be a commissioned officer of the Armed Forces in active status.

(2) The positions referred to in this paragraph are the following:

(A) The Director of National Intelligence.

(B) The Principal Deputy Director of National Intelligence.

(3) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (2)—

(A) be a commissioned officer of the Armed Forces, in active status; or

(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

(4) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (2)—

(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

(5) Except as provided in subparagraph (A) or (B) of paragraph (4), the appointment of an officer of the Armed Forces to a position specified in paragraph (2) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

(6) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (2), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of National Intelligence.

(July 26, 1947, ch. 343, title I, § 103A, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3656.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3b. National Intelligence Council

(a) National Intelligence Council

There is a National Intelligence Council.

(b) Composition

(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of National Intelligence.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) Duties and responsibilities

(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the Director of National Intelligence in carrying out the responsibil-

ities of the Director under section 403–1 of this title.

(2) The Director of National Intelligence shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence.

(d) Service as senior intelligence advisers

Within their respective areas of expertise and under the direction of the Director of National Intelligence, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

(e) Authority to contract

Subject to the direction and control of the Director of National Intelligence, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

(f) Staff

The Director of National Intelligence shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) Availability of Council and staff

(1) The Director of National Intelligence shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) Support

The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the Director of National Intelligence.

(i) National Intelligence Council product

For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

(July 26, 1947, ch. 343, title I, § 103B, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3657.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3c. General Counsel

(a) General Counsel

There is a General Counsel of the Office of the Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Prohibition on dual service as General Counsel of another agency

The individual serving in the position of General Counsel may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) Scope of position

The General Counsel is the chief legal officer of the Office of the Director of National Intelligence.

(d) Functions

The General Counsel shall perform such functions as the Director of National Intelligence may prescribe.

(July 26, 1947, ch. 343, title I, § 103C, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3658.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3d. Civil Liberties Protection Officer

(a) Civil Liberties Protection Officer

(1) Within the Office of the Director of National Intelligence, there is a Civil Liberties Protection Officer who shall be appointed by the Director of National Intelligence.

(2) The Civil Liberties Protection Officer shall report directly to the Director of National Intelligence.

(b) Duties

The Civil Liberties Protection Officer shall—

(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the Director of National Intelligence and the elements of the intelligence community within the National Intelligence Program;

(2) oversee compliance by the Office and the Director of National Intelligence with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy;

(3) review and assess complaints and other information indicating possible abuses of civil liberties and privacy in the administration of the programs and operations of the Office and the Director of National Intelligence and, as appropriate, investigate any such complaint or information;

(4) ensure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(5) ensure that personal information contained in a system of records subject to section 552a of title 5 (popularly referred to as the ''Privacy Act''), is handled in full compliance with fair information practices as set out in that section;

(6) conduct privacy impact assessments when appropriate or as required by law; and

(7) perform such other duties as may be prescribed by the Director of National Intelligence or specified by law.

(c) Use of agency Inspectors General

When appropriate, the Civil Liberties Protection Officer may refer complaints to the Office of Inspector General having responsibility for the affected element of the department or agency of the intelligence community to conduct an investigation under paragraph (3) of subsection (b) of this section.

(July 26, 1947, ch. 343, title I, § 103D, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3658.)

REFERENCES IN TEXT

The Privacy Act, referred to in subsec. (b)(5), probably means the Privacy Act of 1974, Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, as amended, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 552a of Title 5 and Tables.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3e. Director of Science and Technology

(a) Director of Science and Technology

There is a Director of Science and Technology within the Office of the Director of National Intelligence who shall be appointed by the Director of National Intelligence.

(b) Requirement relating to appointment

An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology.

(c) Duties

The Director of Science and Technology shall—

(1) act as the chief representative of the Director of National Intelligence for science and technology;

(2) chair the Director of National Intelligence Science and Technology Committee under subsection (d) of this section;

(3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;

(4) assist the Director on the science and technology elements of the budget of the Office of the Director of National Intelligence; and

(5) perform other such duties as may be prescribed by the Director of National Intelligence or specified by law.

(d) Director of National Intelligence Science and Technology Committee

(1) There is within the Office of the Director of Science and Technology a Director of National Intelligence Science and Technology Committee.

(2) The Committee shall be composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Director of Science and Technology shall prescribe.

(July 26, 1947, ch. 343, title I, § 103E, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3659.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3f. National Counterintelligence Executive

(a) National Counterintelligence Executive

The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 [50 U.S.C. 402b] is a component of the Office of the Director of National Intelligence.

(b) Duties

The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002 and such other duties as may be prescribed by the Director of National Intelligence or specified by law.

(July 26, 1947, ch. 343, title I, § 103F, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660.)

REFERENCES IN TEXT

The Counterintelligence Enhancement Act of 2002, referred to in subsec. (b), is title IX of Pub. L. 107–306, Nov. 27, 2002, 116 Stat. 2432, which enacted sections 402b and 402c of this title, amended section 402a of this title, and enacted provisions set out as notes under sections 401 and 402b of this title. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 401 of this title and Tables.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 403–3g. Chief Information Officer

(a) Chief Information Officer

To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there shall be within the Office of the Director of National Intelligence a Chief Information Officer who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Chief Information Officer of intelligence community

The Chief Information Officer shall serve as the chief information officer of the intelligence community.

(c) Duties and responsibilities

Subject to the direction of the Director of National Intelligence, the Chief Information Officer shall—

(1) manage activities relating to the information technology infrastructure and enterprise architecture requirements of the intelligence community;

(2) have procurement approval authority over all information technology items related to the enterprise architectures of all intelligence community components;

(3) direct and manage all information technology-related procurement for the intelligence community; and

(4) ensure that all expenditures for information technology and research and development activities are consistent with the intelligence community enterprise architecture and the strategy of the Director for such architecture.

(d) Prohibition on simultaneous service as other chief information officer

An individual serving in the position of Chief Information Officer may not, while so serving, serve as the chief information officer of any other department or agency, or component thereof, of the United States Government.

(July 26, 1947, ch. 343, title I, § 103G, as added Pub. L. 108–487, title III, § 303(a)(1), Dec. 23, 2004, 118 Stat. 3944.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

EFFECTIVE DATE

Pub. L. 108–487, title III, § 303(b), Dec. 23, 2004, 118 Stat. 3944, provided that: ''The amendments made by this section [enacting this section] shall take effect on the effective date of the National Security Intelligence Reform Act of 2004 [see section 1097 of Pub. L. 108–458, set out in an Effective Date of 2004 Amendment; Transfer, Termination, and Transition Provisions note under section 401 of this title], as provided in section 801 of this Act [set out in an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse].''

§ 403–4. Central Intelligence Agency

(a) Central Intelligence Agency

There is a Central Intelligence Agency.

(b) Function

The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 403–4a(c) of this title.

(July 26, 1947, ch. 343, title I, § 104, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660.)

PRIOR PROVISIONS

A prior section 403–4, act July 26, 1947, ch. 343, title I, § 104, as added Pub. L. 102–496, title VII, § 705(a)(3), Oct. 24, 1992, 106 Stat. 3192; amended Pub. L. 104–106, div. A, title XV, § 1502(f)(5), Feb. 10, 1996, 110 Stat. 510; Pub. L. 104–293, title VIII, § 807(b), Oct. 11, 1996, 110 Stat. 3480; Pub. L. 106–65, div. A, title X, § 1067(16), Oct. 5, 1999, 113 Stat. 775; Pub. L. 106–567, title I, § 105, Dec. 27, 2000, 114 Stat. 2834; Pub. L. 107–306, title III, §§ 321, 353(b)(1)(A), (4), Nov. 27, 2002, 116 Stat. 2391, 2402, related to authorities of Director of Central Intelligence, prior to repeal by Pub. L. 108–458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See sections 403–1 and 403–4a of this title.

Another prior section 104 of act July 26, 1947, was renumbered section 108 and is classified to section 404a of this title.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

IMPLEMENTATION OF COMPENSATION REFORM PLAN

Pub. L. 108–177, title IV, § 405(c), Dec. 13, 2003, 117 Stat. 2633, required the Director of Central Intelligence to submit to the congressional intelligence committees a report on the compensation of Central Intelligence Agency employees participating in the pilot project under section 402(b) of Pub. L. 107–306, formerly set out below.

Pub. L. 107–306, title IV, § 402, Nov. 27, 2002, 116 Stat. 2403, as amended by Pub. L. 108–177, title IV, § 405(a), Dec. 13, 2003, 117 Stat. 2632, delayed implementation of a compensation reform plan for Central Intelligence Agency employees, required the Director of Central Intelligence to conduct a pilot project to test the efficacy and fairness of the plan and to submit a report on the project to the congressional intelligence committees, and expressed the sense of Congress that the Director of the National Security Agency should delay implementation of a compensation reform plan for National Security Agency employees and that an employee performance evaluation mechanism should be phased in before implementation of any new compensation plan at either Agency.

DESIGNATION OF HEADQUARTERS COMPOUND OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE BUSH CENTER FOR INTELLIGENCE

Pub. L. 105–272, title III, § 309, Oct. 20, 1998, 112 Stat. 2403, provided that:

''(a) DESIGNATION.—The headquarters compound of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the 'George Bush Center for Intelligence'.

''(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the headquarters compound referred to in subsection (a) shall be deemed to be a reference to the 'George Bush Center for Intelligence'.''

COMMUNICATION OF RESTRICTED DATA

Authorization for the communication of Restricted Data by the Central Intelligence Agency, see Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, set out as a note under section 2162 of Title 42, The Public Health and Welfare.

§ 403–4a. Director of the Central Intelligence Agency

(a) Director of Central Intelligence Agency

There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Supervision

The Director of the Central Intelligence Agency shall report to the Director of National Intelligence regarding the activities of the Central Intelligence Agency.

(c) Duties

The Director of the Central Intelligence Agency shall—

(1) serve as the head of the Central Intelligence Agency; and

(2) carry out the responsibilities specified in subsection (d) of this section.

(d) Responsibilities

The Director of the Central Intelligence Agency shall—

(1) collect intelligence through human sources and by other appropriate means, except that the Director of the Central Intelligence Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

(2) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

(3) provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection; and

(4) perform such other functions and duties related to intelligence affecting the national security as the President or the Director of National Intelligence may direct.

(e) Termination of employment of CIA employees

(1) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(f) Coordination with foreign governments

Under the direction of the Director of National Intelligence and in a manner consistent with section 3927 of title 22, the Director of the Central Intelligence Agency shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(g) Foreign language proficiency for certain senior level positions in Central Intelligence Agency

(1) Except as provided pursuant to paragraph (2), an individual may not be appointed to a position in the Senior Intelligence Service in the Directorate of Intelligence or the Directorate of Operations of the Central Intelligence Agency unless the Director of the Central Intelligence Agency determines that the individual—

(A) has been certified as having a professional speaking and reading proficiency in a foreign language, such proficiency being at least level 3 on the Interagency Language Roundtable Language Skills Level or commensurate proficiency level using such other indicator of proficiency as the Director of the Central Intelligence Agency considers appropriate; and

(B) is able to effectively communicate the priorities of the United States and exercise influence in that foreign language.

(2) The Director of the Central Intelligence Agency may, in the discretion of the Director, waive the application of paragraph (1) to any position or category of positions otherwise covered by that paragraph if the Director determines that foreign language proficiency is not necessary for the successful performance of the duties and responsibilities of such position or category of positions.

(July 26, 1947, ch. 343, title I, § 104A, as added Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660; amended Pub. L. 108–487, title VI, § 611(a), Dec. 23, 2004, 118 Stat. 3954.)

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–487 added subsec. (g).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–487, title VI, § 611(b), Dec. 23, 2004, 118 Stat. 3955, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to appointments made on or after the date that is one year after the date of the enactment of this Act [Dec. 23, 2004].''

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

POST-EMPLOYMENT RESTRICTIONS

Pub. L. 104–293, title IV, § 402, Oct. 11, 1996, 110 Stat. 3468, provided that:

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 11, 1996], the Director of Central Intelligence shall prescribe regulations requiring each employee of the Central Intelligence Agency designated by the Director for such purpose to sign a written agreement restricting the activities of the employee upon ceasing employment with the Central Intelligence Agency. The Director may designate a group or class of employees for such purpose.

''(b) AGREEMENT ELEMENTS.—The regulations shall provide that an agreement contain provisions specifying that the employee concerned not represent or advise the government, or any political party, of any foreign country during the three-year period beginning on the cessation of the employee's employment with the Central Intelligence Agency unless the Director determines that such representation or advice would be in the best interests of the United States.

''(c) DISCIPLINARY ACTIONS.—The regulations shall specify appropriate disciplinary actions (including loss of retirement benefits) to be taken against any employee determined by the Director of Central Intelligence to have violated the agreement of the employee under this section.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

EXECUTIVE ORDER NO. 13355

Ex. Ord. No. 13355, Aug. 27, 2004, 69 F.R. 53593, which related to strengthened management of the Intelligence Community, was revoked by Ex. Ord. No. 12333, § 3.6, Dec. 4, 1981, 46 F.R. 59954, as amended by Ex. Ord. No. 13470, § 4(j), July 30, 2008, 73 F.R. 45341, set out as a note under section 401 of this title.

§ 403–4b. Transformation of Central Intelligence Agency

The Director of the Central Intelligence Agency shall, in accordance with standards developed by the Director in consultation with the Director of National Intelligence—

(1) enhance the analytic, human intelligence, and other capabilities of the Central Intelligence Agency;

(2) develop and maintain an effective language program within the Agency;

(3) emphasize the hiring of personnel of diverse backgrounds for purposes of improving the capabilities of the Agency;

(4) establish and maintain effective relationships between human intelligence and signals intelligence within the Agency at the operational level; and

(5) achieve a more effective balance within the Agency with respect to unilateral operations and liaison operations.

(Pub. L. 108–458, title I, § 1011(c), Dec. 17, 2004, 118 Stat. 3661.)

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the National Security Intelligence Reform Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

SENSE OF CONGRESS

Pub. L. 108–458, title I, § 1011(b), Dec. 17, 2004, 118 Stat. 3661, provided that: ''It is the sense of Congress that—

''(1) the human intelligence officers of the intelligence community have performed admirably and honorably in the face of great personal dangers;

''(2) during an extended period of unprecedented investment and improvements in technical collection means, the human intelligence capabilities of the United States have not received the necessary and commensurate priorities;

''(3) human intelligence is becoming an increasingly important capability to provide information on the asymmetric threats to the national security of the United States;

''(4) the continued development and improvement of a robust and empowered and flexible human intelligence work force is critical to identifying, understanding, and countering the plans and intentions of the adversaries of the United States; and

''(5) an increased emphasis on, and resources applied to, enhancing the depth and breadth of human intelligence capabilities of the United States intelligence community must be among the top priorities of the Director of National Intelligence.''

§ 403–5. Responsibilities of Secretary of Defense pertaining to National Intelligence Program

(a) In general

Consistent with sections 403 and 403–1 of this title, the Secretary of Defense, in consultation with the Director of National Intelligence, shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman[1] of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director by elements of the Department of Defense within the National Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Intelligence Program;

[1] So in original. Probably should be capitalized.

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) Responsibility for performance of specific functions

Consistent with sections 403 and 403–1 of this title, the Secretary of Defense shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information;

(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

(A) the requirements of the Director of National Intelligence;

(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

(C) the requirements of the unified and specified combatant commands and of joint operations; and

(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

(c) Use of elements of Department of Defense

The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

(July 26, 1947, ch. 343, title I, § 105, as added Pub. L. 102–496, title VII, § 706(a), Oct. 24, 1992, 106 Stat. 3194; amended Pub. L. 103–359, title V, § 501(a)(2), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104–201, div. A, title XI, § 1114(a), Sept. 23, 1996, 110 Stat. 2684; Pub. L. 104–293, title VIII, § 808, Oct. 11, 1996, 110 Stat. 3481; Pub. L. 107–306, title VIII, § 811(b)(1)(A), Nov. 27, 2002, 116 Stat. 2421; Pub. L. 108–136, div. A, title IX, § 921(e)(2), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108–177, title III, § 361(a), Dec. 13, 2003, 117 Stat. 2625; Pub. L. 108–458, title I, §§ 1071(a)(1)(E), (F), (2)(A), 1072(a)(2), (3), 1074(b)(1)(B), Dec. 17, 2004, 118 Stat. 3689, 3690, 3692, 3694.)

AMENDMENTS

2004—Pub. L. 108–458, § 1074(b)(1)(B)(ii), struck out ''Foreign'' before ''Intelligence'' in section catchline.

Subsec. (a). Pub. L. 108–458, § 1072(a)(2), substituted ''Consistent with sections 403 and 403–1 of this title, the Secretary'' for ''The Secretary'' in introductory provisions.

Pub. L. 108–458, § 1071(a)(1)(E), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (a)(2). Pub. L. 108–458, § 1074(b)(1)(B)(i), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

Pub. L. 108–458, § 1071(a)(2)(A), struck out ''of Central Intelligence'' after ''Director''.

Subsec. (a)(3). Pub. L. 108–458, § 1074(b)(1)(B)(i), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

Subsec. (b). Pub. L. 108–458, § 1072(a)(3), substituted ''403 and 403–1'' for ''403–3 and 403–4'' in introductory provisions.

Subsec. (b)(6)(A). Pub. L. 108–458, § 1071(a)(1)(F), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Subsec. (b)(2). Pub. L. 108–136, § 921(e)(2), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (d). Pub. L. 108–177 struck out subsec. (d) which related to annual evaluations of performance and responsiveness of certain elements of the intelligence community.

Subsec. (d)(3). Pub. L. 108–136, §921(e)(2), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

2002—Subsec. (d). Pub. L. 107–306 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 404d(c) of this title) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.''

1996—Subsec. (a). Pub. L. 104–293, §808(1), inserted '', in consultation with the Director of Central Intelligence,'' after ''Secretary of Defense'' in introductory provisions.

Subsec. (b)(2). Pub. L. 104–201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''through the Central Imagery Office (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;''.

Subsec. (d). Pub. L. 104–293, §808(2), added subsec. (d).

1994—Subsec. (b)(2). Pub. L. 103–359 substituted ''the Central Imagery Office'' for ''a central imagery authority''.

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 401 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 401 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE

Pub. L. 109–163, div. A, title IX, §931, Jan. 6, 2006, 119 Stat. 3411, provided that:

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

''(1) Open-source intelligence (OSINT) is intelligence that is produced from publicly available information and is collected, exploited, and disseminated in a timely manner to an appropriate audience for the purpose of addressing a specific intelligence requirement.

''(2) With the Information Revolution, the amount, significance, and accessibility of open-source information has expanded significantly, but the intelligence community has not expanded its exploitation efforts and systems to produce open-source intelligence.

''(3) The production of open-source intelligence is a valuable intelligence discipline that must be integrated into intelligence tasking, collection, processing, exploitation, and dissemination to ensure that United States policymakers are fully and completely informed.

''(4) The dissemination and use of validated open-source intelligence inherently enables information sharing since open-source intelligence is produced without the use of sensitive sources and methods. Open-source intelligence products can be shared with the American public and foreign allies because of the unclassified nature of open-source intelligence.

''(5) The National Commission on Terrorist Attacks Upon the United States (popularly referred to as the '9/11 Commission'), in its final report released on July 22, 2004, identified shortfalls in the ability of the United States to use all-source intelligence, a large component of which is open-source intelligence.

''(6) In the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) [see Tables for classification], Congress calls for coordination of the collection, analysis, production, and dissemination of open-source intelligence.

''(7) The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, in its report to the President released on March 31, 2005, found that 'the need for exploiting open-source material is greater now than ever before,' but that 'the Intelligence Community's open source programs have not expanded commensurate with either the increase in available information or with the growing importance of open source data to today's problems'.

''(b) DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.—

''(1) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy for the purpose of integrating open-source intelligence into the Defense intelligence process. The strategy shall be known as the 'Defense Strategy for Open-Source Intelligence'. The strategy shall be incorporated within the larger Defense intelligence strategy.

''(2) SUBMISSION.—The Secretary shall submit to Congress a report setting forth the strategy developed under paragraph (1). The report shall be submitted not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006].

''(c) MATTERS TO BE INCLUDED.—The strategy under subsection (b) shall include the following:

''(1) A plan for providing funds over the period of the future-years defense program for the development of a robust open-source intelligence capability for the Department of Defense, with particular emphasis on exploitation and dissemination.

''(2) A description of how management of the collection of open-source intelligence is currently conducted within the Department of Defense and how that management can be improved.

''(3) A description of the tools, systems, centers, organizational entities, and procedures to be used within the Department of Defense to perform open-source intelligence tasking, collection, processing, exploitation, and dissemination.

''(4) A description of proven tradecraft for effective exploitation of open-source intelligence, to include consideration of operational security.

''(5) A detailed description on how open-source intelligence will be fused with all other intelligence sources across the Department of Defense.

''(6) A description of—

''(A) a training plan for Department of Defense intelligence personnel with respect to open-source intelligence; and

''(B) open-source intelligence guidance for Department of Defense intelligence personnel.

''(7) A plan to incorporate the function of oversight of open-source intelligence—

''(A) into the Office of the Undersecretary of Defense for Intelligence; and

''(B) into service intelligence organizations.

''(8) A plan to incorporate and identify an open-source intelligence specialty into personnel systems

of the Department of Defense, including military personnel systems.

''(9) A plan for the use of intelligence personnel of the reserve components to augment and support the open-source intelligence mission.

''(10) A plan for the use of the Open-Source Information System for the purpose of exploitation and dissemination of open-source intelligence.''

ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE IN EXPERIMENTAL PERSONNEL PROGRAM FOR CERTAIN SCIENTIFIC AND TECHNICAL PERSONNEL

Pub. L. 106–567, title V, § 501, Dec. 27, 2000, 114 Stat. 2850, as amended by Pub. L. 108–136, div. A, title IX, § 921(g), Nov. 24, 2003, 117 Stat. 1570, provided that: ''If the Director of Central Intelligence requests that the Secretary of Defense exercise any authority available to the Secretary under section 1101(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 5 U.S.C. 3104 note) to carry out a program of special personnel management authority at the National Geospatial-Intelligence Agency and the National Security Agency in order to facilitate recruitment of eminent experts in science and engineering at such agencies, the Secretary shall respond to such request not later than 30 days after the date of such request.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

§ 403–5a. Assistance to United States law enforcement agencies

(a) Authority to provide assistance

Subject to subsection (b) of this section, elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

(b) Limitation on assistance by elements of Department of Defense

(1) With respect to elements within the Department of Defense, the authority in subsection (a) of this section applies only to the following:

(A) The National Security Agency.

(B) The National Reconnaissance Office.

(C) The National Geospatial-Intelligence Agency.

(D) The Defense Intelligence Agency.

(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

(c) Definitions

For purposes of subsection (a) of this section:

(1) The term ''United States law enforcement agency'' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

(2) The term ''United States person'' means the following:

(A) A United States citizen.

(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

(July 26, 1947, ch. 343, title I, § 105A, as added Pub. L. 104–293, title VIII, § 814(a), Oct. 11, 1996, 110 Stat. 3483; amended Pub. L. 108–136, div. A, title IX, § 921(e)(3), Nov. 24, 2003, 117 Stat. 1569.)

AMENDMENTS

2003—Subsec. (b)(1)(C). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

§ 403–5b. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources

(a) Disclosure of foreign intelligence

(1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of National Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

(2) The Attorney General by regulation and in consultation with the Director may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

(b) Procedures for notice of criminal investigations

Not later than 180 days after October 26, 2001, the Attorney General, in consultation with the Director of National Intelligence, shall develop

guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

(c) Procedures

The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) of this section and the provision of notice with respect to criminal investigations under subsection (b) of this section.

(July 26, 1947, ch. 343, title I, § 105B, as added Pub. L. 107–56, title IX, § 905(a)(2), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 108–458, title I, § 1071(a)(1)(G), (H), (2)(B), (C), Dec. 17, 2004, 118 Stat. 3689, 3690.)

PRIOR PROVISIONS

A prior section 403–5b, act July 26, 1947, ch. 343, title I, § 105B, as added Pub. L. 106–120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616, which related to protection of operational files of the National Imagery and Mapping Agency, was renumbered by subsequent acts and transferred, see section 432 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''.

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 401 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 401 of this title.

§ 403–5c. Transferred

CODIFICATION

Section, act July 26, 1947, ch. 343, title I, § 105C, formerly § 105B, as added Pub. L. 106–120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616; renumbered § 105C, Pub. L. 107–56, title IX, § 905(a)(1), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 107–306, title III, § 353(b)(5), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–136, div. A, title IX, § 921(e)(4), Nov. 24, 2003, 117 Stat. 1569, which related to protection of operational files of the National Geospatial-Intelligence Agency, was renumbered section 702 of act July 26, 1947, by Pub. L. 108–136, div. A, title IX, § 922(c), Nov. 24, 2003, 117 Stat. 1573, and was transferred to section 432 of this title.

§ 403–5d. Foreign intelligence information

(1) In general

Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined in section 401a of this title) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information. Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.

(2) Definition

In this section, the term ''foreign intelligence information'' means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

(Pub. L. 107–56, title II, § 203(d), Oct. 26, 2001, 115 Stat. 281; Pub. L. 107–296, title VIII, § 897(a), Nov. 25, 2002, 116 Stat. 2257.)

CODIFICATION

Section was enacted as part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or USA PATRIOT Act, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2002—Par. (1). Pub. L. 107–296 inserted at end ''Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 403–5e. Transferred

CODIFICATION

Section, act July 26, 1947, ch. 343, title I, § 105D, as added Pub. L. 107–306, title V, § 502(a), Nov. 27, 2002, 116 Stat. 2405, which related to protection of operational files of the National Reconnaissance Office, was renumbered section 703 of act July 26, 1947, by Pub. L. 108–136, div. A, title IX, § 922(c), Nov. 24, 2003, 117 Stat. 1573, and was transferred to section 432a of this title.

§ 403–6. 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 of the Department of Energy.

(F) The Director of the Office of Counterintelligence of the Department of Energy.

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

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

(I) 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.)

AMENDMENTS

2007—Subsec. (b)(2)(I). Pub. L. 110–53 amended subpar. (I) generally. Prior to amendment, subpar. (I) read as follows: ''The Assistant Secretary of Homeland Security for Information Analysis.''

2006—Subsec. (c)(2)(C). Pub. L. 109–177 added subpar. (C).

2004—Pub. L. 108–458 amended text generally, substituting provisions relating to involvement of Director of National Intelligence in appointments, consisting of subsecs. (a) to (c), for provisions relating to involvement of Director of Central Intelligence in appointments, consisting of subsecs. (a) and (b).

2003—Subsec. (a)(2)(C). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (b)(2)(E). Pub. L. 108–177 added subpar. (E).

2001—Subsec. (b)(2)(C), (D). Pub. L. 107–108 added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: ''The Director of the Office of Nonproliferation and National Security of the Department of Energy.''.

1996—Pub. L. 104–293 amended section generally, substituting provisions relating to appointment of individuals responsible for intelligence-related activities for provisions relating to administrative provisions pertaining to defense elements within the intelligence community.

1994—Subsec. (b). Pub. L. 103–359 substituted ''Central Imagery Office'' for ''central imagery authority'' in heading and text.

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 401 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 as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.

§ 403–7. Prohibition on using journalists as agents or assets

(a) Policy

It is the policy of the United States that an element of the Intelligence Community may not use as an agent or asset for the purposes of collecting intelligence any individual who—

(1) is authorized by contract or by the issuance of press credentials to represent himself or herself, either in the United States or abroad, as a correspondent of a United States news media organization; or

(2) is officially recognized by a foreign government as a representative of a United States media organization.

(b) Waiver

Pursuant to such procedures as the President may prescribe, the President or the Director of Central Intelligence may waive subsection (a) of this section in the case of an individual if the President or the Director, as the case may be, makes a written determination that the waiver is necessary to address the overriding national security interest of the United States. The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be notified of any waiver under this subsection.

(c) Voluntary cooperation

Subsection (a) of this section shall not be construed to prohibit the voluntary cooperation of any person who is aware that the cooperation is being provided to an element of the United States Intelligence Community.

(Pub. L. 104–293, title III, § 309, Oct. 11, 1996, 110 Stat. 3467.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1997, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

§ 403–8. Reaffirmation of longstanding prohibition against drug trafficking by employees of the intelligence community

(a) Finding

Congress finds that longstanding statutes, regulations, and policies of the United States prohibit employees, agents, and assets of the elements of the intelligence community, and of every other Federal department and agency, from engaging in the illegal manufacture, purchase, sale, transport, and distribution of drugs.

(b) Obligation of employees of intelligence community

Any employee of the intelligence community having knowledge of a fact or circumstance that reasonably indicates that an employee, agent, or asset of an element of the intelligence community is involved in any activity that violates a statute, regulation, or policy described in subsection (a) of this section shall report such knowledge to an appropriate official.

(c) Intelligence community defined

In this section, the term ''intelligence community'' has the meaning given that term in section 401a(4) of this title.

(Pub. L. 106–120, title III, § 313, Dec. 3, 1999, 113 Stat. 1615.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2000, and not as part of

the National Security Act of 1947 which comprises this chapter.

§ 403a. Definitions relating to Central Intelligence Agency

When used in sections 403a to 403s of this title, the term—

(1) ''Agency'' means the Central Intelligence Agency;

(2) ''Director'' means the Director of the Central Intelligence Agency; and

(3) ''Government agency'' means any executive department, commission, council, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government.

(June 20, 1949, ch. 227, § 1, 63 Stat. 208; Pub. L. 86–707, title V, § 511(a)(3), (c)(1), Sept. 6, 1960, 74 Stat. 800, 801; Pub. L. 108–458, title I, § 1077, Dec. 17, 2004, 118 Stat. 3695.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Pub. L. 108–458 redesignated subsecs. (a) to (c) as pars. (1) to (3), respectively, and amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''`Director' means the Director of Central Intelligence;''.

1960—Subsec. (c). Pub. L. 86–707, § 511(c)(1), substituted ''Government.'' for ''Government; and''.

Subsec. (d). Pub. L. 86–707, § 511(a)(3), repealed subsec. (d) which defined ''continental United States''. See section 5921 of Title 5, Government Organization and Employees.

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 401 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 401 of this title.

SHORT TITLE

Act June 20, 1949, ch. 227, § 10, formerly § 12, 63 Stat. 212; renumbered § 10, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337, provided that: ''This Act [enacting section 403a et seq. of this title] may be cited as the 'Central Intelligence Agency Act of 1949'.''

SEPARABILITY

Act June 20, 1949, § 9, formerly § 11, 63 Stat. 212; renumbered § 9, July 7, 1958, Pub. L. 85–507, § 21(b)(2), 72 Stat. 337, provided that: ''If any provision of this Act [enacting sections 403a et seq. of this title], or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''

§ 403b. Seal of office of Central Intelligence Agency

The Director shall cause a seal of office to be made for the Central Intelligence Agency, of such design as the President shall approve, and judicial notice shall be taken thereof.

(June 20, 1949, ch. 227, § 2, 63 Stat. 208; Pub. L. 108–458, title I, § 1071(b)(2)(A), Dec. 17, 2004, 118 Stat. 3690.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Pub. L. 108–458 struck out ''of Central Intelligence'' after ''Director''.

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 401 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 401 of this title.

§ 403c. Procurement authority of Central Intelligence Agency

(a) Purchases and contracts for supplies and services

In the performance of its functions the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2304(a)(1) to (6), (10), (12), (15), (17), and sections 2305(a) to (c), 2306, 2307, 2308, 2309, 2312, and 2313 of title 10.[1]

(b) "Agency head" defined

In the exercise of the authorities granted in subsection (a) of this section, the term ''Agency head'' shall mean the Director, the Deputy Director, or the Executive of the Agency.

(c) Classes of purchases and contracts; finality of decision; powers delegable

The determinations and decisions provided in subsection (a) of this section to be made by the Agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (d) of this section, the Agency head is authorized to delegate his powers provided in this section, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the Agency.

(d) Powers not delegable; written findings

The power of the Agency head to make the determinations or decisions specified in paragraphs (12) and (15) of section 2304(a) and section 2307(a) of title 10[1] shall not be delegable. Each determination or decision required by para-

[1] See Codification note below.

graphs (12) and (15) of section 2304(a), by sections 2306 and 2313, or by section 2307(a) of title 10,[1] shall be based upon written findings made by the official making such determinations, which findings shall be final and shall be available within the Agency for a period of at least six years following the date of the determination.

(June 20, 1949, ch. 227, § 3, 63 Stat. 208; Pub. L. 97–269, title V, § 502(a), Sept. 27, 1982, 96 Stat. 1145; Pub. L. 104–106, div. E, title LVI, § 5607(f), Feb. 10, 1996, 110 Stat. 702.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

In subsecs. (a) and (d), references to the appropriate sections of title 10 were substituted for references to sections 2(c)(1) to (6), (10), (12), (15), (17), 3, 4, 5, 6, and 10 of the Armed Services Procurement Act of 1947 (Public Law 413, 80th Congress), on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces. Prior to the enactment of Title 10, sections 2 to 6 and 10 of the Armed Services Procurement Act of 1947 were classified to sections 151 to 155 and 159 of Title 41, Public Contracts. Cited sections of the Act were restated in sections of Title 10 as follows:

Act	*Title 10*
2(c)	2304(a)
3	2305(a)–(c)
4	2306, 2313
5	2307
5(a)	2307(a)
6	2312
10	2308, 2309

Sections 2304 and 2305 of title 10 were amended generally by Pub. L. 98–369, and as so amended contain provisions differing from those referred to in subsecs. (a) and (d). Section 2308 of title 10 was repealed by Pub. L. 103–355, title I, § 1503(b)(1), Oct. 13, 1994, 108 Stat. 3297. For similar provisions, see section 2311 of title 10.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–106 struck out subsec. (e) which read as follows: ''Notwithstanding subsection (e) of section 759 of title 40, the provisions of section 759 of title 40 relating to the procurement of automatic data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.''

1982—Subsec. (e). Pub. L. 97–269 added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 703 of title VII of Pub. L. 97–269 provided that: ''The provisions of titles IV and V [enacting former section 202 of Title 10, Armed Forces, and amending this section] and of this title [which, except for enacting this note was not classified to the Code] shall become effective upon the date of the enactment of this Act [Sept. 27, 1982].''

PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES; CONTRACTS MADE BEFORE SEPTEMBER 27, 1982

Section 502(b) of Pub. L. 97–269 provided that: ''Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of the enactment of this Act [Sept. 27, 1982].''

§ 403d. Repealed. Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337

Section, act June 20, 1949, ch. 227, § 4, 63 Stat. 208, related to education and training of officers and employees. See section 4101 et seq. of Title 5, Government Organization and Employees.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403e. Central Intelligence Agency personnel; allowances and benefits

(a) Travel, allowances, and related expenses for officers and employees assigned to duty stations outside United States

Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to duty stations outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, shall—

(1)(A) pay the travel expenses of officers and employees of the Agency, including expenses incurred while traveling pursuant to authorized home leave;

(B) pay the travel expenses of members of the family of an officer or employee of the Agency when proceeding to or returning from his post of duty; accompanying him on authorized home leave; or otherwise traveling in accordance with authority granted pursuant to the terms of sections 403a to 403s of this title or any other Act;

(C) pay the cost of transporting the furniture and household and personal effects of an officer or employee of the Agency to his successive posts of duty and, on the termination of his services, to his residence at time of appointment or to a point not more distant, or, upon retirement, to the place where he will reside;

(D) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency, when he is absent from his post of assignment under orders, or when he is assigned to a post to which he cannot take or at which he is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by regulations, when not otherwise fixed by law;

(E) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency in connection with assignment or transfer to a new post, from the date of his departure from his last post or from the date of his departure, from his place of residence in the case of a new officer or employee and for not to exceed three months after arrival at the

new post, or until the establishment of residence quarters, whichever shall be shorter; and in connection with separation of an officer or employee of the Agency, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed three months, his furniture and household and personal effects; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by regulations, when not otherwise fixed by law.[1]

(F) pay the travel expenses and transportation costs incident to the removal of the members of the family of an officer or employee of the Agency and his furniture and household and personal effects, including automobiles, from a post at which, because of the prevalence of disturbed conditions, there is imminent danger to life and property, and the return of such persons, furniture, and effects to such post upon the cessation of such conditions; or to such other post as may in the meantime have become the post to which such officer or employee has been assigned.

(2) Charge expenses in connection with travel of personnel, their dependents, and transportation of their household goods and personal effects, involving a change of permanent station, to the appropriation for the fiscal year current when any part of either the travel or transportation pertaining to the transfer begins pursuant to previously issued travel and transfer orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year, or the travel and transfer orders may have been issued during the prior fiscal year.

(3)(A) Order to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter.

(B) While in the United States (as described in paragraph (3)(A) of this subsection)[2] on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe; and the time of such work or duty shall not be counted as leave.

(C) Where an officer or employee on leave returns to the United States (as described in paragraph (3)(A) of this subsection),[2] leave of absence granted shall be exclusive of the time actually and necessarily occupied in going to and from the United States (as so described) and such time as may be necessarily occupied in awaiting transportation.

(4) Notwithstanding the provisions of any other law, transport for or on behalf of an officer or employee of the Agency, a privately owned motor vehicle in any case in which it shall be determined that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, and pay the costs of such transportation. Not more than one motor vehicle of any officer or employee of the Agency may be transported under authority of this paragraph during any four-year period, except that, as a replacement for such motor vehicle, one additional motor vehicle of any such officer or employee may be so transported during such period upon approval, in advance, by the Director and upon a determination, in advance, by the Director that such replacement is necessary for reasons beyond the control of the officer or employee and is in the interest of the Government. After the expiration of a period of four years following the date of transportation under authority of this paragraph of a privately owned motor vehicle of any officer or employee who has remained in continuous service outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, during such period, the transportation of a replacement for such motor vehicle for such officer or employee may be authorized by the Director in accordance with this paragraph.

(5)(A) In the event of illness or injury requiring the hospitalization of an officer or full time employee of the Agency incurred while on assignment abroad, in a locality where there does not exist a suitable hospital or clinic, pay the travel expenses of such officer or employee by whatever means the Director deems appropriate and without regard to the Standardized Government Travel Regulations and section 5731 of title 5, to the nearest locality where a suitable hospital or clinic exists and on the recovery of such officer or employee pay for the travel expenses of the return to the post of duty of such officer or employee. If the officer or employee is too ill to travel unattended, the Director may also pay the travel expenses of an attendant;

(B) Establish a first-aid station and provide for the services of a nurse at a post at which, in the opinion of the Director, sufficient personnel is employed to warrant such a station: *Provided*, That, in the opinion of the Director, it is not feasible to utilize an existing facility;

(C) In the event of illness or injury requiring hospitalization of an officer or full time employee of the Agency incurred in the line of duty while such person is assigned abroad, pay for the cost of the treatment of such illness or injury at a suitable hospital or clinic;

(D) Provide for the periodic physical examination of officers and employees of the Agency and for the cost of administering inoculation or vaccinations to such officers or employees.

(6) Pay the costs of preparing and transporting the remains of an officer or employee of the Agency or a member of his family who may die while in travel status or abroad, to his home or official station, or to such other place as the Director may determine to be the appropriate place of interment, provided that

[1] So in original. The period probably should be a semicolon.

[2] See Codification note below.

in no case shall the expense payable be greater than the amount which would have been payable had the destination been the home or official station.

(7) Pay the costs of travel of new appointees and their dependents, and the transportation of their household goods and personal effects, from places of actual residence in foreign countries at time of appointment to places of employment and return to their actual residences at the time of appointment or a point not more distant: *Provided*, That such appointees agree in writing to remain with the United States Government for a period of not less than twelve months from the time of appointment.

Violation of such agreement for personal convenience of an employee or because of separation for misconduct will bar such return payments and, if determined by the Director or his designee to be in the best interests of the United States, any money expended by the United States on account of such travel and transportation shall be considered as a debt due by the individual concerned to the United States.

(b) Allowances and benefits comparable to those paid members of Foreign Service; special requirements; persons detailed or assigned from other agencies; regulations

(1) The Director may pay to officers and employees of the Agency, and to persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces, allowances and benefits comparable to the allowances and benefits authorized to be paid to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law.

(2) The Director may pay allowances and benefits related to officially authorized travel, personnel and physical security activities, operational activities, and cover-related activities (whether or not such allowances and benefits are otherwise authorized under this section or any other provision of law) when payment of such allowances and benefits is necessary to meet the special requirements of work related to such activities. Payment of allowances and benefits under this paragraph shall be in accordance with regulations prescribed by the Director. Rates for allowances and benefits under this paragraph may not be set at rates in excess of those authorized by section 5724 and 5724a of title 5 when reimbursement is provided for relocation attributable, in whole or in part, to relocation within the United States.

(3) Notwithstanding any other provision of this section or any other provision of law relating to the officially authorized travel of Government employees, the Director, in order to reflect Agency requirements not taken into account in the formulation of Government-wide travel procedures, may by regulation—

(A) authorize the travel of officers and employees of the Agency, and of persons detailed or assigned to the Agency from other agencies of the Government or from the Armed Forces who are engaged in the performance of intelligence functions, and

(B) provide for payment for such travel, in classes of cases, as determined by the Director, in which such travel is important to the performance of intelligence functions.

(4) Members of the Armed Forces may not receive benefits under both this section and title 37 for the same purpose. The Director and Secretary of Defense shall prescribe joint regulations to carry out the preceding sentence.

(5) Regulations, other than regulations under paragraph (1), issued pursuant to this subsection shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

(June 20, 1949, ch. 227, §4, formerly §5, 63 Stat. 209; renumbered §4, Pub. L. 85–507, §21(b)(2), July 7, 1958, 72 Stat. 337; amended Pub. L. 86–707, title III, §§301(b), 323, title V, §511(a)(3), (c)(2)–(5), Sept. 6, 1960, 74 Stat. 795, 798, 800, 801; Pub. L. 97–89, title V, §501, Dec. 4, 1981, 95 Stat. 1152; Pub. L. 103–359, title IV, §401, Oct. 14, 1994, 108 Stat. 3427; Pub. L. 108–177, title IV, §401, Dec. 13, 2003, 117 Stat. 2631.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b)(1), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 9 of title I of the Foreign Service Act of 1980 is classified generally to subchapter IX (§4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

In subsec. (a)(3)(B), (C), ''this subsection'' substituted for ''this section'' as the probable intent of Congress in view of the designation of the existing provisions of this section as subsec. (a) and the addition of subsec. (b) by Pub. L. 97–89, title V, §501, Dec. 4, 1981, 95 Stat. 1152.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2003—Subsec. (b)(5). Pub. L. 108–177 inserted '', other than regulations under paragraph (1),'' after ''Regulations''.

1994—Subsec. (a)(5)(A). Pub. L. 103–359, §401(1)(A)–(D), struck out '', not the result of vicious habits, intemperance, or misconduct on his part,'' after ''the Agency'' and substituted ''the Director deems'' for ''he shall deem'', ''section 5731 of title 5'' for ''section 10 of the Act of March 3, 1933 (47 Stat. 1516; 5 U.S.C. 73b)'', and ''the recovery of such officer or employee'' for ''his recovery''.

Pub. L. 103–359, §401(1)(E), which directed the substitution of ''the return to the post of duty of such officer or employee'' for ''his return to his post'', was executed by making the substitution for ''his return to his post of duty'' to reflect the probable intent of Congress.

Subsec. (a)(5)(B). Pub. L. 103–359, §401(2), substituted ''the opinion of the Director'' for ''his opinion'' in two places.

Subsec. (a)(5)(C). Pub. L. 103–359, §401(3), struck out '', not the result of vicious habits, intemperance, or misconduct on his part,'' after ''the Agency''.

1981—Pub. L. 97–89 designated existing provisions as subsec. (a) and added subsec. (b).

1960—Pub. L. 86–707, §323(a), substituted ''duty stations outside the several States of the United States of

America, excluding Alaska and Hawaii, but including the District of Columbia'' for ''permanent-duty stations outside the continental United States, its territories, and possessions'' in opening provisions, and struck out subsec. (a) designation.

Par. (1)(A). Pub. L. 86–707, § 511(c)(2), substituted ''pursuant to authorized home leave'' for ''pursuant to orders issued by the Director in accordance with the provisions of subsection (a)(3) of this section with regard to the granting of home leave''.

Par. (1)(D). Pub. L. 86–707, § 301(b), authorized payment of cost of packing and unpacking and transporting to and from a place of storage, extended authority to pay storage costs for an officer or employee assigned to a post to which he cannot take or at which he is unable to use his furniture and household personal effects by striking out provisions which restricted such payment only to cases where an emergency exists, empowered Director to pay storage costs when it is in the public interest or more economical to authorize storage, and limited weight or volume of effects stored or weight or volume of effects transported to not more than maximum limitations fixed by regulations, when not otherwise fixed by law.

Par. (1)(E). Pub. L. 86–707, § 301(b), authorized payment of cost of packing and unpacking and transporting to and from a place of storage, permitted payment from date of departure from officer's or employee's last post or from date of departure from place of residence in the case of a new officer or employee, empowered Director to pay storage costs in connection with separation of an officer or employee from the Agency, and limited weight or volume of effects stored or weight or volume of effects transported to not more than maximum limitations fixed by regulations, when not otherwise fixed by law.

Par. (3)(A). Pub. L. 86–707, § 511(c)(3), substituted ''to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter'' for ''to the United States or its Territories and possessions on leave provided for in sections 30–30b of Title 5 [former Title 5, Executive Departments and Government Officers and Employees], or as such sections may hereafter be amended, every officer and employee of the agency who was a resident of the United States or its Territories and possessions at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter: Provided, That such officer or employee has accrued to his credit at the time of such order, annual leave sufficient to carry him in a pay status while in the United States for at least a thirty-day period''.

Par. (3)(B). Pub. L. 86–707, § 511(c)(4), substituted ''United States (as described in paragraph (3)(A) of this section) on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe'' for ''continental United States on leave, the service of any officer or employee shall not be available for work or duties except in the agency or for training or for reorientation for work''.

Par. (3)(C). Pub. L. 86–707, § 511(c)(5), substituted ''returns to the United States (as described in paragraph (3)(A) of this section)'' for ''returns to the United States or its Territories and possessions'', and ''from the United States (as so described)'' for ''from the United States or its Territories and possessions''.

Par. (4). Pub. L. 86–707, § 323(b), limited transportation of motor vehicles to one for any officer or employee during any four-year period, and empowered Director to approve transportation of one additional motor vehicle for replacement either during the four-year period or after expiration of four years following date of transportation of a motor vehicle of any officer or employee who has remained in continuous service outside the several States, excluding Alaska and Hawaii, but including the District of Columbia, for such period.

Pub. L. 86–707, § 511(a)(3), repealed subsec. (b) which authorized Director to grant allowances in accordance with provisions of section 1131(1), (2) of Title 22, Foreign Relations and Intercourse. See pars. (1)(D) and (1)(E) of this section.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

CLARIFICATION OF TERMS APPLIED TO FURNITURE, HOUSEHOLD GOODS, AND PERSONAL EFFECTS IN 1960 AMENDMENT

Section 301(d) of Pub. L. 86–707 provided that: ''The term 'furniture and household and personal effects', as used in the amendments made by this part to the Foreign Service Act of 1946, as amended [amending section 1136 of Title 22, Foreign Relations and Intercourse], and the Central Intelligence Agency Act of 1949, as amended [amending this section], and the term 'household goods and personal effects', as used in the amendments made by this part to the Administrative Expenses Act of 1946, as amended [amending section 73b–1 of former Title 5, Executive Departments and Government Officers and Employees], mean such personal property of an employee and the dependents of such employee as the Secretary of State and the Director of Central Intelligence, as the case may be, with respect to the term 'furniture and household and personal effects', and the President, with respect to the term 'household goods and personal effects', shall by regulation authorize to be transported or stored under the amendments made by this part to such Acts (including, in emergencies, motor vehicles authorized to be shipped at Government expense). Such motor vehicle shall be excluded from the weight and volume limitations prescribed by the laws set forth in this part.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

Section 301(d) of Pub. L. 86–707 was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 661, insofar as it is applicable to the Administrative Expenses Act of 1946, as amended.

EXECUTIVE ORDER NO. 10100

Ex. Ord. No. 10100, Jan. 28, 1950, 15 F.R. 499, which provided for regulations governing the granting of allowances by the Director of the Central Intelligence Agency under this section, was revoked by section 5(a) of Ex. Ord. No. 10903, Jan. 9, 1961, 26 F.R. 217, set out under section 5921 of Title 5, Government Organization and Employees.

§ 403e–1. Eligibility for incentive awards

(a) Scope of authority with respect to Federal employees and members of Armed Forces

The Director of Central Intelligence may exercise the authority granted in section 4503 of title 5, with respect to Federal employees and members of the Armed Forces detailed or assigned to the Central Intelligence Agency or to the Intelligence Community Staff, in the same manner as such authority may be exercised with respect to the personnel of the Central Intelligence Agency and the Intelligence Community Staff.

(b) Time for exercise of authority

The authority granted by subsection (a) of this section may be exercised with respect to Federal employees or members of the Armed Forces detailed or assigned to the Central Intelligence Agency or to the Intelligence Community Staff on or after a date five years before December 9, 1983.

(c) Exercise of authority with respect to members of Armed Forces assigned to foreign intelligence duties

During fiscal year 1987, the Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5 with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.

(d) Payment and acceptance of award

An award made by the Director of Central Intelligence to an employee or member of the Armed Forces under the authority of section 4503 of title 5 or this section may be paid and accepted notwithstanding—

(1) section 5536 of title 5; and

(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties.

(Pub. L. 98–215, title IV, § 402, Dec. 9, 1983, 97 Stat. 1477; Pub. L. 99–569, title V, § 503, Oct. 27, 1986, 100 Stat. 3198.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1984, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, nor as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1986—Subsecs. (c), (d). Pub. L. 99–569 added subsecs. (c) and (d).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

§ 403f. General authorities of Agency

(a) In general

In the performance of its functions, the Central Intelligence Agency is authorized to—

(1) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities authorized under paragraphs (2) and (3) of section 403(a) of this title,[1] subsections (c)(7) and (d) of section 403–3 of this title,[1] subsections (a) and (g) of section 403–4 of this title,[1] and section 405 of this title, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of sections 403a to 403s of this title without regard to limitations of appropriations from which transferred;

(2) Exchange funds without regard to section 3651 of the Revised Statutes;

(3) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency;

(4) Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of current and former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices;

(5) Make alterations, improvements, and repairs on premises rented by the Agency, and pay rent therefor;

(6) Determine and fix the minimum and maximum limits of age within which an original appointment may be made to an operational position within the Agency, notwithstanding the provision of any other law, in accordance with such criteria as the Director, in his discretion, may prescribe; and

(7) Notwithstanding section 1341(a)(1) of title 31, enter into multiyear leases for up to 15 years.

(b) Scope of authority for expenditure

(1) The authority to enter into a multiyear lease under subsection (a)(7) of this section shall be subject to appropriations provided in advance for—

(A) the entire lease; or

(B) the first 12 months of the lease and the Government's estimated termination liability.

(2) In the case of any such lease entered into under subparagraph (B) of paragraph (1)—

(A) such lease shall include a clause that provides that the contract shall be terminated if budget authority (as defined by section 622(2) of title 2) is not provided specifically for that project in an appropriations Act in advance of an obligation of funds in respect thereto;

(B) notwithstanding section 1552 of title 31, amounts obligated for paying termination costs with respect to such lease shall remain available until the costs associated with termination of such lease are paid;

[1] See References in Text notes below.

(C) funds available for termination liability shall remain available to satisfy rental obligations with respect to such lease in subsequent fiscal years in the event such lease is not terminated early, but only to the extent those funds are in excess of the amount of termination liability at the time of their use to satisfy such rental obligations; and

(D) funds appropriated for a fiscal year may be used to make payments on such lease, for a maximum of 12 months, beginning any time during such fiscal year.

(c) Transfers for acquisition of land

(1) Sums appropriated or otherwise made available to the Agency for the acquisition of land that are transferred to another department or agency for that purpose shall remain available for 3 years.

(2) The Director shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the transfer of sums described in paragraph (1) each time that authority is exercised.

(June 20, 1949, ch. 227, § 5, formerly § 6, 63 Stat. 211; June 26, 1951, ch. 151, 65 Stat. 89; renumbered § 5, Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337; amended Pub. L. 88–448, title IV, § 402(a)(28), Aug. 19, 1964, 78 Stat. 494; Pub. L. 97–89, title V, § 502, Dec. 4, 1981, 95 Stat. 1153; Pub. L. 98–215, title IV, § 401, Dec. 9, 1983, 97 Stat. 1477; Pub. L. 103–178, title V, § 501(1), Dec. 3, 1993, 107 Stat. 2038; Pub. L. 105–107, title IV, § 401(a), Nov. 20, 1997, 111 Stat. 2257; Pub. L. 105–272, title IV, §§ 401, 403(a)(1), Oct. 20, 1998, 112 Stat. 2403, 2404; Pub. L. 106–567, title IV, § 405(a), (b), Dec. 27, 2000, 114 Stat. 2849; Pub. L. 107–306, title VIII, § 841(c), Nov. 27, 2002, 116 Stat. 2431; Pub. L. 108–177, title III, § 377(b)(1), Dec. 13, 2003, 117 Stat. 2630.)

REFERENCES IN TEXT

Sections 403, 403–3 and 403–4 of this title, referred to in subsec. (a)(1), were repealed and new sections 403, 403–3 and 403–4 enacted by Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3643, without corresponding amendment to this section. The new sections differ from the sections they replaced in both content and structure.

Section 3651 of the Revised Statutes, referred to in subsec. (a)(2), was classified to section 543 of former Title 31, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1084, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–177 substituted ''(c)(7)'' for ''(c)(6)''.

2002—Subsec. (c)(2). Pub. L. 107–306 substituted ''a report on the transfer of sums described in paragraph (1) each time that authority is exercised.'' for ''an annual report on the transfers of sums described in paragraph (1).''

2000—Pub. L. 106–567 added subsec. (a) and (b) headings and subsec. (c).

1998—Subsec. (a)(1). Pub. L. 105–272, § 403(a)(1), substituted ''paragraphs (2) and (3) of section 403(a)'' for ''subparagraphs (B) and (C) of section 403(a)(2)'' and ''(c)(6)'' for ''(c)(5)'' and made technical amendments to references in original act which appear in text as references to sections 403, 403–3, 403–4 of this title.

Subsec. (a)(4). Pub. L. 105–272, § 401, substituted ''and the protection of current and former Agency personnel and their immediate families, defectors and their immediate families,'' for ''and the protection of Agency personnel and of defectors, their families,''.

1997—Pub. L. 105–107 designated existing provisions as subsec. (a), redesignated former subsecs. (a) to (f) as pars. (1) to (6), respectively, of subsec. (a), in par. (5) substituted semicolon for ''without regard to limitations on expenditures contained in the Act of June 30, 1932, as amended: *Provided*, That in each case the Director shall certify that exception from such limitations is necessary to the successful performance of the Agency's functions or to the security of its activities; and'', and added par. (7) and subsec. (b).

1993—Subsec. (a). Pub. L. 103–178 substituted ''Office of Management and Budget'' for ''Bureau of the Budget'' and ''subparagraphs (B) and (C) of section 403(a)(2) of this title, subsections (c)(5) and (d) of section 403–3 of this title, subsections (a) and (g) of section 403–4 of this title, and section 405 of this title'' for ''sections 403 and 405 of this title''.

1983—Subsec. (f). Pub. L. 98–215 added subsec. (f).

1981—Subsec. (d). Pub. L. 97–89 substituted ''Authorize personnel designated by the Director to carry firearms to the extent necessary for the performance of the Agency's authorized functions, except that, within the United States, such authority shall be limited to the purposes of protection of classified materials and information, the training of Agency personnel and other authorized persons in the use of firearms, the protection of Agency installations and property, and the protection of Agency personnel and of defectors, their families, and other persons in the United States under Agency auspices; and'' for ''Authorize couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;''.

1964—Subsec. (f). Pub. L. 88–448 repealed subsec. (f) which authorized employment of not more than fifteen retired officers who must elect between civilian salary and retired pay. See section 3101 et seq. of Title 5, Government Organization and Employees.

1951—Subsec. (f). Act June 26, 1951, added subsec. (f).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–567, title IV, § 405(c), Dec. 27, 2000, 114 Stat. 2849, provided that: ''Subsection (c) of section 5 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403f(c)], as added by subsection (a) of this section, shall apply with respect to amounts appropriated or otherwise made available for the Central Intelligence Agency for fiscal years after fiscal year 2000.''

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–107, title IV, § 401(b), Nov. 20, 1997, 111 Stat. 2257, provided that: ''The amendments made by subsection (a) [amending this section] apply to multiyear leases entered into under section 5 of the Central Intelligence Agency Act of 1949 [this section], as so amended, on or after October 1, 1997.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

RESTRICTION ON TRANSFER OF FUNDS AVAILABLE TO CENTRAL INTELLIGENCE AGENCY FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

Pub. L. 111–118, div. A, title VIII, § 8047(b), Dec. 19, 2009, 123 Stat. 3439, provided that: ''None of the funds

available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. C, title VIII, § 8047(b), Sept. 30, 2008, 122 Stat. 3632.

Pub. L. 110–116, div. A, title VIII, § 8048(b), Nov. 13, 2007, 121 Stat. 1325.

Pub. L. 109–289, div. A, title VIII, § 8045(b), Sept. 29, 2006, 120 Stat. 1283.

Pub. L. 109–148, div. A, title VIII, § 8052(b), Dec. 30, 2005, 119 Stat. 2710.

Pub. L. 108–287, title VIII, § 8057(b), Aug. 5, 2004, 118 Stat. 983.

Pub. L. 108–87, title VIII, § 8057(b), Sept. 30, 2003, 117 Stat. 1085.

Pub. L. 107–248, title VIII, § 8058(b), Oct. 23, 2002, 116 Stat. 1550.

Pub. L. 107–117, div. A, title VIII, § 8063(b), Jan. 10, 2002, 115 Stat. 2261.

Pub. L. 106–259, title VIII, § 8062(b), Aug. 9, 2000, 114 Stat. 688.

Pub. L. 106–79, title VIII, § 8065(b), Oct. 25, 1999, 113 Stat. 1244.

Pub. L. 105–262, title VIII, § 8065(b), Oct. 17, 1998, 112 Stat. 2312.

Pub. L. 105–56, title VIII, § 8071(b), Oct. 8, 1997, 111 Stat. 1235.

Pub. L. 104–208, div. A, title I, § 101(b) [title VIII, § 8080(b)], Sept. 30, 1996, 110 Stat. 3009–71, 3009–104.

Pub. L. 104–61, title VIII, § 8096(b), Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103–335, title VIII, § 8154(b), Sept. 30, 1994, 108 Stat. 2658.

§ 403g. Protection of nature of Agency's functions

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement section 403–1(i) of this title that the Director of National Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2 of the Act of August 28, 1935 (49 Stat. 956, 957; 5 U.S.C. 654), and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: *Provided*, That in furtherance of this section, the Director of the Office of Management and Budget shall make no reports to the Congress in connection with the Agency under section 607 of the Act of June 30, 1945, as amended (5 U.S.C. 947(b)).

(June 20, 1949, ch. 227, § 6, formerly § 7, 63 Stat. 211; renumbered § 6, Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337; amended Pub. L. 103–178, title V, § 501(2), Dec. 3, 1993, 107 Stat. 2038; Pub. L. 105–272, title IV, § 403(a)(2), Oct. 20, 1998, 112 Stat. 2404; Pub. L. 108–177, title III, § 377(b)(2), Dec. 13, 2003, 117 Stat. 2630; Pub. L. 108–458, title I, §§ 1071(b)(1)(A), 1072(b), Dec. 17, 2004, 118 Stat. 3690, 3692.)

References in Text

Act of August 28, 1935, referred to in text, which provided for the yearly publication of the Official Register of the United States, was repealed by Pub. L. 86–626, title I, § 101, July 12, 1960, 74 Stat. 427.

Section 607 of the Act of June 30, 1945, as amended, referred to in text, was repealed by act Sept. 12, 1950, ch. 946, title III, § 301(85), 64 Stat. 843.

Codification

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

Amendments

2004—Pub. L. 108–458, § 1072(b), substituted ''section 403–1(i)'' for ''section 403–3(c)(7)''.

Pub. L. 108–458, § 1071(b)(1)(A), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Pub. L. 108–177 substituted ''section 403–3(c)(7) of this title'' for ''section 403–3(c)(6) of this title''.

1998—Pub. L. 105–272 substituted ''403–3(c)(6)'' for ''403–3(c)(5)''.

1993—Pub. L. 103–178 substituted ''section 403–3(c)(5) of this title'' for ''the proviso of section 403(d)(3) of this title'' and ''Office of Management and Budget'' for ''Bureau of the Budget''.

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 401 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 401 of this title.

§ 403h. Admission of essential aliens; limitation on number

Whenever the Director, the Attorney General, and the Commissioner of Immigration and Naturalization shall determine that the admission of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be admitted to the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families admitted to the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

(June 20, 1949, ch. 227, § 7, formerly § 8, 63 Stat. 212; renumbered § 7, Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337; Pub. L. 104–208, div. C, title III, § 308(f)(6), Sept. 30, 1996, 110 Stat. 3009–622.)

References in Text

The immigration laws, referred to in text, are classified generally to Title 8, Aliens and Nationality. See also section 1101(a)(17) of Title 8.

Codification

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

Amendments

1996—Pub. L. 104–208 substituted ''that the admission'' for ''that the entry'', ''shall be admitted to'' for ''shall be given entry into'', and ''families admitted to'' for ''families entering''.

CHANGE OF NAME

Ex. Ord. No. 6166, § 14, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees, consolidated Bureaus of Immigration and Naturalization of Department of Labor to form an Immigration and Naturalization Service in Department of Labor, to be administered by a Commissioner of Immigration and Naturalization, which was then transferred from Department of Labor to Department of Justice by Reorg. Plan No. V of 1940, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238, set out in the Appendix to Title 5. Accordingly, ''Commissioner of Immigration and Naturalization'' was substituted for ''Commissioner of Immigration''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 403i. Repealed. Sept. 1, 1954, ch. 1208, title VI, § 601(b), 68 Stat. 1115

Section, acts June 20, 1949, ch. 227, § 9, 63 Stat. 212; Aug. 16, 1950, ch. 719, 64 Stat. 450, related to establishment of positions in the professional and scientific field.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403j. Central Intelligence Agency; appropriations; expenditures

(a) Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions, including—

(1) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; health-service program as authorized by law (5 U.S.C. 7901); rental of news-reporting services; purchase or rental and operation of photographic, reproduction, cryptographic, duplication, and printing machines, equipment, and devices, and radio-receiving and radio-sending equipment and devices, including telegraph and teletype equipment; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, and aircraft, and vessels of all kinds; subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment, where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance, and cleaning of firearms, including purchase, storage, and maintenance of ammunition; subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency; association and library dues; payment of premiums or costs of surety bonds for officers or employees without regard to the provisions of section 14[1] of title 6; payment of claims pursuant to title 28; acquisition of necessary land and the clearing of such land; construction of buildings and facilities without regard to 36 Stat. 699; 40 U.S.C. 259, 267;[1] repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances; and

(2) supplies, equipment, and personnel and contractual services otherwise authorized by law and regulations, when approved by the Director.

(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

(June 20, 1949, ch. 227, § 8, formerly § 10, 63 Stat. 212; renumbered § 8, Pub. L. 85–507, § 21(b)(2), July 7, 1958, 72 Stat. 337.)

REFERENCES IN TEXT

Section 14 of title 6, referred to in subsec. (a)(1), was repealed by Pub. L. 93–310, title II, § 203(1), June 6, 1972, 86 Stat. 202.

The reference to 36 Stat. 699; 40 U.S.C. 259, 267, in subsec. (a)(1), was probably meant to be a reference to section 3734 of the Revised Statutes. Section 33 of act June 25, 1910, ch. 383, which appears at 36 Stat. 699, amended generally section 3734 of the Revised Statutes which was classified to sections 259 and 267 of former Title 40, Public Buildings, Property, and Works. Section 3734 of the Revised Statutes was subsequently repealed by Pub. L. 86–249, § 17(12), Sept. 9, 1959, 73 Stat. 485.

CODIFICATION

In subsec. (a)(1), ''(5 U.S.C. 7901)'' substituted for ''(5 U.S.C. 150)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

[1] See References in Text note below.

AVAILABILITY OF APPROPRIATIONS FOR CONSTRUCTION PROJECTS

Pub. L. 103–139, title VIII, § 8104, Nov. 11, 1993, 107 Stat. 1463, provided that: ''During the current fiscal year and thereafter, funds appropriated for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.'' Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–396, title IX, § 9030, Oct. 6, 1992, 106 Stat. 1907.

Pub. L. 102–172, title VIII, § 8030, Nov. 26, 1991, 105 Stat. 1177.

Pub. L. 101–511, title VIII, § 8031, Nov. 5, 1990, 104 Stat. 1881.

Pub. L. 101–165, title IX, § 9042, Nov. 21, 1989, 103 Stat. 1137.

Pub. L. 100–463, title VIII, § 8074, Oct. 1, 1988, 102 Stat. 2270–29.

Pub. L. 100–202, § 101(b) [title VIII, § 8095], Dec. 22, 1987, 101 Stat. 1329–43, 1329–79.

Pub. L. 99–500, § 101(c) [title IX, § 9130], Oct. 18, 1986, 100 Stat. 1783–82, 1783–128; Pub. L. 99–591, § 101(c) [title IX, § 9130], Oct. 30, 1986, 100 Stat. 3341–82, 3341–128.

ACQUISITION OF CRITICAL SKILLS

Pub. L. 99–569, title V, § 506, Oct. 27, 1986, 100 Stat. 3202, provided that: ''Pursuant to the authority granted in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), the Director of Central Intelligence shall establish an undergraduate training program with respect to civilian employees of the Central Intelligence Agency similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

§ 403k. Authority to pay death gratuities

(a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

(b) Any payment under subsection (a) of this section—

(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

(3) shall be made under the same conditions as apply to payments authorized by section 3973 of title 22.

(June 20, 1949, ch. 227, § 11, as added Pub. L. 96–450, title IV, § 403(a), Oct. 14, 1980, 94 Stat. 1978.)

CODIFICATION

In subsec. (b)(3), ''section 3973 of title 22'' substituted for ''section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)'' on authority of section 2401(c) of the Foreign Service Act of 1980 (22 U.S.C. 4172(c)), section 2205(10) of which repealed section 14 of the 1956 Act (22 U.S.C. 2679a).

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403*l*. Authority to accept gifts, devises and bequests

(a) Use for operational purposes prohibited

Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by any such gift) may be used only for artistic display or for purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, and under no circumstances may such a gift (or any income produced by any such gift) be used for operational purposes. The Director may not accept any gift under this section which is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

(b) Sale, exchange and investment of gifts

Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under this section, but any such investment may only be in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(c) Deposit of gifts into special fund

There is hereby created on the books of the Treasury of the United States a fund into which gifts of money, securities, and other intangible property accepted under the authority of this section, and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a) or (b) of this section.

(d) Taxation of gifts

For purposes of Federal income, estate, and gift taxes, gifts accepted by the Director under this section shall be considered to be to or for the use of the United States.

(e) "Gift" defined

For the purposes of this section, the term ''gift'' includes a bequest or devise.

(June 20, 1949, ch. 227, § 12, as added Pub. L. 96–450, title IV, § 404, Oct. 14, 1980, 94 Stat. 1979.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the Na-

tional Security Act of 1947 which comprises this chapter.

§ 403m. Misuse of Agency name, initials, or seal

(a) Prohibited acts

No person may, except with the written permission of the Director, knowingly use the words ''Central Intelligence Agency'', the initials ''CIA'', the seal of the Central Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Central Intelligence Agency.

(b) Injunction

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) of this section, 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 action 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.

(June 20, 1949, ch. 227, § 13, as added Pub. L. 97–89, title V, § 503, Dec. 4, 1981, 95 Stat. 1153.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as a note under section 1621 of Title 10, Armed Forces.

§ 403n. Special provisions for spouses of Central Intelligence Agency employees applicable to Agency participants in Civil Service Retirement and Disability System

(a) Manner and extent of applicability

The provisions of sections 2002, 2031(b)(1)–(3), 2031(f), 2031(g), 2031(h)(2), 2031(i), 2031(*l*), 2032, 2033, 2034, 2035, 2052(b), 2071(b), 2071(d), and 2094(b) of this title establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

(b) Regulations

The Director of the Office of Personnel Management, in consultation with the Director of the Central Intelligence Agency, shall prescribe such regulations as may be necessary to implement the provisions of this section.

(June 20, 1949, ch. 227, § 14, as added Pub. L. 97–269, title VI, § 612, Sept. 27, 1982, 96 Stat. 1154; amended Pub. L. 99–569, title III, § 302(b), Oct. 27, 1986, 100 Stat. 3194; Pub. L. 100–178, title IV, §§ 401(b), 402(b)(3), Dec. 2, 1987, 101 Stat. 1013, 1014; Pub. L. 102–496, title VIII, § 803(a)(1), Oct. 24, 1992, 106 Stat. 3251; Pub. L. 108–458, title I, § 1071(b)(3)(A), Dec. 17, 2004, 118 Stat. 3690.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458 substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

1992—Subsec. (a). Pub. L. 102–496 substituted references to sections 2002, 2031 to 2035, 2052, 2071, and 2094 of this title for references in original to sections 204, 221 to 225, 232, 234 and 263 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees which were formerly set out in a note under section 403 of this title.

1987—Subsec. (a). Pub. L. 100–178, § 402(b)(3), inserted ''232(b),'' before ''234(c), 234(d),''.

Pub. L. 100–178, § 401(b), inserted ''225,'' after ''223, 224,''.

1986—Subsec. (a). Pub. L. 99–569 inserted ''224,'' after ''223,''.

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 401 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 401 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–178 effective Nov. 15, 1982, but not to be construed to require forfeiture by any individual of benefits received before Dec. 2, 1987, nor to require reduction in level of benefits received by any individual who was receiving benefits under section 232 of Pub. L. 88–643 before Dec. 2, 1987, see section 402(c)–(e) of Pub. L. 100–178, set out as an Effective Date of Amendments to Pub. L. 88–643 Prior to Enactment of Pub. L. 102–496 note under section 2001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 302(d) of Pub. L. 99–569 provided that: ''The amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall take effect on October 1, 1986.''

EFFECTIVE DATE

Section effective Nov. 15, 1982, see section 613 of Pub. L. 97–269 set out as an Effective Date of Amendments to Pub. L. 88–643 Prior to Enactment of Pub. L. 102–496 note under section 2001 of this title.

§ 403*o*. Security personnel at Agency installations

(a) Special policemen: functions and powers; regulations: promulgation and enforcement

(1) The Director may authorize Agency personnel within the United States to perform the same functions as officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

(A) within the Agency Headquarters Compound and the property controlled and occupied by the Federal Highway Administration located immediately adjacent to such Compound;

(B) in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such Compound and property and extending outward 500 feet;

(C) within any other Agency installation and protected property; and

(D) in the streets, sidewalks, and open areas within the zone beginning at the outside boundary of any installation or property referred to in subparagraph (C) and extending outward 500 feet.

(2) The performance of functions and exercise of powers under subparagraph (B) or (D) of paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that the performance of such functions and exercise of such powers is reasonable to protect against physical damage or injury, or threats of physical damage or injury, to Agency installations, property, or employees.

(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency, or any other Federal police or Federal protective service.

(4) The rules and regulations enforced by such personnel shall be the rules and regulations prescribed by the Director and shall only be applicable to the areas referred to in subparagraph (A) or (C) of paragraph (1).

(b) Penalties for violations of regulations

The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in section 1315(c)(2) of title 40.

(c) Identification

Agency personnel designated by the Director under subsection (a) of this section shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) of this section refers.

(d) Protection of certain CIA personnel from tort liability

(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a) of this section, or designated by the Director under section 403f(a)(4) of this title to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices, shall be considered for purposes of chapter 171 of title 28, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such Agency personnel take reasonable action, which may include the use of force, to—

(A) protect an individual in the presence of such Agency personnel from a crime of violence;

(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(C) prevent the escape of any individual whom such Agency personnel reasonably believe to have committed a crime of violence in the presence of such Agency personnel.

(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679 of title 28.

(3) In this subsection, the term ''crime of violence'' has the meaning given that term in section 16 of title 18.

(June 20, 1949, ch. 227, § 15, as added Pub. L. 98–473, title I, § 140, Oct. 12, 1984, 98 Stat. 1973, as added Pub. L. 98–618, title IV, § 401, Nov. 8, 1984, 98 Stat. 3301; amended Pub. L. 105–107, title IV, § 404, Nov. 20, 1997, 111 Stat. 2260; Pub. L. 107–306, title VIII, § 841(d), Nov. 27, 2002, 116 Stat. 2432; Pub. L. 108–177, title III, § 377(b)(3), title IV, § 402, Dec. 13, 2003, 117 Stat. 2630, 2631.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

Provisions of this section were also enacted by the Intelligence Authorization Act for fiscal year 1985, Pub. L. 98–618, title IV, § 401, Nov. 8, 1984, 98 Stat. 3301.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–177, § 377(b)(3)(A), substituted ''officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40,'' for ''special policemen of the General Services Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policeman for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes' (40 U.S.C. 318),''.

Subsec. (b). Pub. L. 108–177, § 377(b)(3)(B), substituted ''section 1315(c)(2) of title 40'' for ''the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c)''.

Subsec. (d). Pub. L. 108–177, § 402, added subsec. (d).

2002—Subsec. (a)(5). Pub. L. 107–306 struck out par. (5) which read as follows: ''Not later than December 1, 1998, and annually thereafter, the Director shall submit a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate that describes in detail the exercise of the authority granted by this subsection, and the underlying facts supporting the exercise of such authority, during the preceding fiscal year. The Director shall make such report available to the Inspector General of the Central Intelligence Agency.''

1997—Subsec. (a)(1). Pub. L. 105–107, § 404(1), (2), inserted ''(1)'' after ''(a)'', substituted ''powers—'' for

''powers only within Agency installations, and the rules and regulations enforced by such personnel shall be rules and regulations promulgated by the Director.'', and added subpars. (A) to (D).

Subsec. (a)(2) to (5). Pub. L. 105–107, § 404(3), added pars. (2) to (5).

DESIGNATION OF HEADQUARTERS COMPOUND OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE BUSH CENTER FOR INTELLIGENCE

Reference to the headquarters compound of the Central Intelligence Agency deemed to be a reference to the George Bush Center for Intelligence, see section 309 of Pub. L. 105–272, set out as a note under section 403–4 of this title.

§ 403p. Health benefits for certain former spouses of Central Intelligence Agency employees

(a) Persons eligible

Except as provided in subsection (e) of this section, any individual—

(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than ten years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse,

is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b) Enrollment for health benefits

(1) Any individual eligible for coverage under subsection (a) of this section may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on October 1, 1986, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5 an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Director of the Central Intelligence Agency shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a) of this section; and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Director of the Office of Personnel Management, upon notification by the Director of the Central Intelligence Agency, shall waive the six-month limitation set forth in paragraph (1) in any case in which the Director of the Central Intelligence Agency determines that the circumstances so warrant.

(c) Eligibility of former wives or husbands

(1) Notwithstanding subsections (a) and (b) of this section and except as provided in subsections (d), (e), and (f) of this section, an individual—

(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director as a participant under section 2013 of this title; and

(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1) of this section, except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.

(d) Continuation of eligibility

Notwithstanding subsections (a), (b), and (c) of this section and except as provided in subsections (e) and (f) of this section, an individual divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or Federal Employees' Retirement System Special Category who enrolled in a health benefits plan following the dissolution of the marriage to such participant may continue enrollment following the death of such participant notwithstanding the termination of the retirement annuity of such individual.

(e) Remarriage before age fifty-five; continued enrollment; restored eligibility

(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1) of this section.

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) of this section or to subsection (d) of this section may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.

(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health ben-

efits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of Personnel Management shall prescribe, enroll in a health benefits plan if such former spouse—

(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.

(f) Enrollment in health benefits plan under other authority

No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(g) "Health benefits plan" defined

For purposes of this section the term ''health benefits plan'' means an approved health benefits plan under chapter 89 of title 5.

(June 20, 1949, ch. 227, § 16, as added Pub. L. 99–569, title III, § 303(a), Oct. 27, 1986, 100 Stat. 3194; amended Pub. L. 102–88, title III, § 307(c), Aug. 14, 1991, 105 Stat. 433; Pub. L. 103–178, title II, § 203(c), Dec. 3, 1993, 107 Stat. 2031; Pub. L. 108–458, title I, § 1071(b)(2)(B), (b)(3)(B), (C), Dec. 17, 2004, 118 Stat. 3690, 3691.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–458, § 1071(b)(3)(B), substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (b)(3). Pub. L. 108–458, § 1071(b)(3)(C), substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence'' in two places.

Subsec. (c)(1)(B). Pub. L. 108–458, § 1071(b)(2)(B), struck out ''of Central Intelligence'' after ''Director''.

1993—Subsec. (a). Pub. L. 103–178, § 203(c)(2)(A), substituted ''subsection (e)'' for ''subsection (c)(1)'' in introductory provisions.

Subsecs. (c), (d). Pub. L. 103–178, § 203(c)(1), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 103–178, § 203(c)(2)(B), inserted ''or to subsection (d) of this section'' after ''subsection (b)(1) of this section'' in par. (2).

Pub. L. 103–178, § 203(c)(1)(A), redesignated subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsecs. (f), (g). Pub. L. 103–178, § 203(c)(1)(A), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

1991—Subsec. (c)(3). Pub. L. 102–88 added par. (3).

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 401 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 401 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(c) of Pub. L. 103–178 applicable to individuals on and after Oct. 1, 1994, with no benefits provided pursuant to section 203(c) payable with respect to any period before Oct. 1, 1994, except that subsec. (d) of this section applicable to individuals beginning Dec. 3, 1993, see section 203(e) of Pub. L. 103–178, set out as a Survivor Annuity, Retirement Annuity, and Health Benefits for Certain Ex-Spouses of Central Intelligence Agency Employees; Effective Date note under section 2032 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 307(d) of Pub. L. 102–88 provided that: ''The amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall take effect as of October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such date.''

EFFECTIVE DATE

Section 303(b) of Pub. L. 99–569 provided that: ''The amendment made by this section [enacting this section] shall take effect on October 1, 1986.''

COMPLIANCE WITH BUDGET ACT

Section 307(e) of Pub. L. 102–88 provided that: ''Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) provided pursuant to the amendments made by this section [amending this section and provisions formerly set out as a note under section 403 of this title] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.''

§ 403q. Inspector General for Agency

(a) Purpose; establishment

In order to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Agency;

(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

(3) provide a means for keeping the Director fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

(4) in the manner prescribed by this section, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereafter in this section referred to collectively as the ''intelligence committees'') are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions,

there is hereby established in the Agency an Office of Inspector General (hereafter in this section referred to as the ''Office'').

(b) Appointment; supervision; removal

(1) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be solely on the basis of integrity, compliance with the security standards of the Agency, and prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(2) The Inspector General shall report directly to and be under the general supervision of the Director.

(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit, inspection, or investigation or to issue such subpoena, if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(4) If the Director exercises any power under paragraph (3), he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he considers appropriate.

(5) In accordance with section 535 of title 28, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Director.

(6) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the intelligence committees the reasons for any such removal.

(c) Duties and responsibilities

It shall be the duty and responsibility of the Inspector General appointed under this section—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses and deficiencies that may occur in such programs and operations, and to report the progress made in implementing corrective action;

(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of his responsibilities, to comply with generally accepted government auditing standards.

(d) Semiannual reports; immediate reports of serious or flagrant problems; reports of functional problems; reports to Congress on urgent concerns

(1) The Inspector General shall, not later than January 31 and July 31 of each year, prepare and submit to the Director a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month periods ending December 31 (of the preceding year) and June 30, respectively. Not later than the dates each year provided for the transmittal of such reports in section 507 of the National Security Act of 1947 [50 U.S.C. 415b], the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Agency identified by the Office during the reporting period;

(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (A);

(C) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

(D) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

(E) a description of the exercise of the subpoena authority under subsection (e)(5) of this section by the Inspector General during the reporting period; and

(F) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Agency, and to detect and eliminate fraud and abuse in such programs and operations.

(2) The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the ad-

ministration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he considers appropriate.

(3) In the event that—

(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities;

(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Agency official who—

(i) holds or held a position in the Agency that is subject to appointment by the President, by and with the advise[1] and consent of the Senate, including such a position held on an acting basis; or

(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

(I) Executive Director;

(II) Deputy Director for Operations;

(III) Deputy Director for Intelligence;

(IV) Deputy Director for Administration; or

(V) Deputy Director for Science and Technology;

(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former Agency official described or referred to in subparagraph (B);

(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any of the officials described in subparagraph (B); or

(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter to the intelligence committees.

(4) Pursuant to Title V of the National Security Act of 1947 [50 U.S.C. 413 et seq.], the Director shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

(5)(A) An employee of the Agency, or of a contractor to the Agency, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director notice of that determination, together with the complaint or information.

(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(ii) The employee may contact the intelligence committees directly as described in clause (i) only if the employee—

(I) before making such a contact, furnishes to the Director, 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

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

(iii) A member or employee of one of the intelligence committees who receives a complaint or information under clause (i) does so in that member or employee's official capacity as a member or employee of that committee.

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

(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(G) In this paragraph:

(i) The term ''urgent concern'' means any of the following:

(I) 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.

(II) 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.

(III) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, constituting reprisal or threat of reprisal prohibited under subsection (e)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

(ii) The term ''intelligence committees'' means the Permanent Select Committee on

[1] So in original. Probably should be ''advice''.

Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(e) Authorities of Inspector General

(1) The Inspector General shall have direct and prompt access to the Director when necessary for any purpose pertaining to the performance of his duties.

(2) The Inspector General shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the Agency—

(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee of the Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of his duties, which oath[2] affirmation, or affidavit when administered or taken by or before an employee of the Office designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of Government agencies, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for or on behalf of any other element or component of the Agency.

(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

(6) The Inspector General shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(7) Subject to applicable law and the policies of the Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, the Inspector General shall create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

(8) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out his duties and responsibilities from any Government agency. Upon request of the Inspector General for such information or assistance, the head of the Government agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Government agency concerned, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(f) Separate budget account

Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of National Intelligence in consultation with the intelligence committees, the Director of National Intelligence shall include in the National Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

(g) Transfer

There shall be transferred to the Office the office of the Agency referred to as the ''Office of Inspector General.'' The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such ''Office of Inspector General'' are hereby transferred to the Office established pursuant to this section.

(June 20, 1949, ch. 227, § 17, as added Pub. L. 100–453, title V, § 504, Sept. 29, 1988, 102 Stat. 1910; amended Pub. L. 101–193, title VIII, § 801, Nov. 30, 1989, 103 Stat. 1711; Pub. L. 102–496, title VI, § 601, Oct. 24, 1992, 106 Stat. 3187; Pub. L. 103–359, title

[2] So in original. Probably should be followed by a comma.

IV, § 402, Oct. 14, 1994, 108 Stat. 3427; Pub. L. 104–93, title IV, § 403, Jan. 6, 1996, 109 Stat. 969; Pub. L. 105–107, title IV, § 402, Nov. 20, 1997, 111 Stat. 2257; Pub. L. 105–272, title VII, § 702(a), Oct. 20, 1998, 112 Stat. 2414; Pub. L. 106–567, title IV, §§ 402, 403, Dec. 27, 2000, 114 Stat. 2847, 2848; Pub. L. 107–108, title III, § 309(a), Dec. 28, 2001, 115 Stat. 1399; Pub. L. 107–306, title VIII, § 811(b)(2), Nov. 27, 2002, 116 Stat. 2422; Pub. L. 108–458, title I, §§ 1071(b)(1)(B), (2)(C), 1074(b)(2), Dec. 17, 2004, 118 Stat. 3690, 3694.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (d)(4), 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (d)(1). Pub. L. 108–458, § 1071(b)(2)(C), struck out ''of Central Intelligence'' after ''to the Director'' in introductory provisions.

Subsec. (f). Pub. L. 108–458, §§ 1071(b)(1)(B), 1074(b)(2), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places and ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

2002—Subsec. (d)(1). Pub. L. 107–306 substituted ''Not later than the dates each year provided for the transmittal of such reports in section 507 of the National Security Act of 1947,'' for ''Within thirty days of receipt of such reports,'' in introductory provisions.

2001—Subsec. (d)(5)(B). Pub. L. 107–108, § 309(a)(1), substituted ''Upon making such a determination, the Inspector General shall transmit to the Director notice of that determination, together with the complaint or information.'' for ''If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the Director.''

Subsec. (d)(5)(D)(i). Pub. L. 107–108, § 309(a)(2), substituted ''does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B),'' for ''does not transmit, or does not transmit in an accurate form, the complaint or information described in subparagraph (B),''.

2000—Subsec. (d)(1)(E). Pub. L. 106–567, § 402(a)(1), added subpar. (E) and struck out former subpar. (E) which read as follows: ''a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to his lack of authority to subpoena such information; and''.

Subsec. (d)(3). Pub. L. 106–567, § 403, added subpars. (B) to (E) and concluding provisions and struck out former subpars. (B) and (C) which read as follows:

''(B) an investigation, inspection, or audit carried out by the Inspector General should focus upon the Director or Acting Director; or

''(C) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit, the Inspector General shall immediately report such matter to the intelligence committees.''

Subsec. (e)(5)(E). Pub. L. 106–567, § 402(a)(2), struck out subpar. (E) which read as follows: ''Not later than January 31 and July 31 of each year, the Inspector General shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report of the Inspector General's exercise of authority under this paragraph during the preceding six months.''

Subsec. (e)(8). Pub. L. 106–567, § 402(b), substituted ''Government'' for ''Federal'' wherever appearing.

1998—Subsec. (d). Pub. L. 105–272 inserted ''; reports to Congress on urgent concerns'' after ''functional problems'' in heading and added par. (5).

1997—Subsec. (b)(3). Pub. L. 105–107, § 402(b), inserted '', or from issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit, inspection, or investigation or to issue such subpoena,'' after ''or investigation''.

Subsec. (e)(5) to (8). Pub. L. 105–107, § 402(a), added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

1996—Subsec. (b)(5). Pub. L. 104–93, § 403(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''In accordance with section 535 of title 28, the Director shall report to the Attorney General any information, allegation, or complaint received from the Inspector General, relating to violations of Federal criminal law involving any officer or employee of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Inspector General.''

Subsec. (e)(3)(A). Pub. L. 104–93, § 403(b), inserted ''or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken'' after ''investigation''.

1994—Subsec. (b)(1). Pub. L. 103–359, § 402(1), substituted ''analysis, public administration, or auditing'' for ''analysis, or public administration''.

Subsec. (c)(1). Pub. L. 103–359, § 402(2), substituted ''to plan, conduct'' for ''to conduct''.

Subsec. (d)(1). Pub. L. 103–359, § 402(3), in introductory provisions, substituted ''January 31 and July 31'' for ''June 30 and December 31'' and ''periods ending December 31 (of the preceding year) and June 30, respectively'' for ''period'' and inserted ''of receipt of such reports'' after ''thirty days''.

Subsec. (d)(3)(C). Pub. L. 103–359, § 402(4), substituted ''investigation, inspection, or audit,'' for ''investigation,''.

Subsec. (d)(4). Pub. L. 103–359, § 402(5), inserted ''or findings and recommendations'' after ''report''.

Subsec. (e)(6). Pub. L. 103–359, § 402(6), substituted ''the Inspector General shall'' for ''it is the sense of Congress that the Inspector General should''.

1992—Subsec. (e)(3). Pub. L. 102–496, in introductory provisions, substituted ''any person'' for ''an employee of the Agency'' and inserted ''from an employee of the Agency'' after ''received''.

1989—Pub. L. 101–193 amended section generally, substituting subsecs. (a) to (g) relating to establishment of the Office of Inspector General and appointment, duties, and authority of Inspector General for introductory par. and subsecs. (a) to (e) relating to various reports to be filed with the intelligence committees by Director of Central Intelligence concerning selection and activities of Inspector General.

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 401 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 401 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 4th item on page 156, relating to the transmittal of semiannual reports to the intelligence committees, identifies a reporting provision which, as subsequently amended, is contained in subsec. (d)(1) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 403r. Special annuity computation rules for certain employees' service abroad

(a) Officers and employees to whom rules apply

Notwithstanding any provision of chapter 83 of title 5, the annuity under subchapter III of such chapter of an officer or employee of the Central Intelligence Agency who retires on or after October 1, 1989, is not designated under section 2013 of this title, and has served abroad as an officer or employee of the Agency on or after January 1, 1987, shall be computed as provided in subsection (b) of this section.

(b) Computation rules

(1) The portion of the annuity relating to such service abroad that is actually performed at any time during the officer's or employee's first ten years of total service shall be computed at the rate and using the percent of average pay specified in section 8339(a)(3) of title 5 that is normally applicable only to so much of an employee's total service as exceeds ten years.

(2) The portion of the annuity relating to service abroad as described in subsection (a) of this section but that is actually performed at any time after the officer's or employee's first ten years of total service shall be computed as provided in section 8339(a)(3) of title 5; but, in addition, the officer or employee shall be deemed for annuity computation purposes to have actually performed an equivalent period of service abroad during his or her first ten years of total service, and in calculating the portion of the officer's or employee's annuity for his or her first ten years of total service, the computation rate and percent of average pay specified in paragraph (1) shall also be applied to the period of such deemed or equivalent service abroad.

(3) The portion of the annuity relating to other service by an officer or employee as described in subsection (a) of this section shall be computed as provided in the provisions of section 8339(a) of title 5 that would otherwise be applicable to such service.

(4) For purposes of this subsection, the term ''total service'' has the meaning given such term under chapter 83 of title 5.

(c) Annuities deemed annuities under section 8339 of title 5

For purposes of subsections (f) through (m) of section 8339 of title 5, an annuity computed under this section shall be deemed to be an annuity computed under subsections (a) and (*o*)[1] of section 8339 of title 5.

(d) Officers and employees entitled to greater annuities under section 8339 of title 5

The provisions of subsection (a) of this section shall not apply to an officer or employee of the Central Intelligence Agency who would otherwise be entitled to a greater annuity computed under an otherwise applicable subsection of section 8339 of title 5.

(June 20, 1949, ch. 227, § 18, as added Pub. L. 101–193, title III, § 305, Nov. 30, 1989, 103 Stat. 1704; amended Pub. L. 102–496, title VIII, § 803(a)(2), Oct. 24, 1992, 106 Stat. 3252.)

REFERENCES IN TEXT

Subsection (*o*) of section 8339 of title 5, referred to in subsec. (c), was redesignated subsec. (p) of that section by Pub. L. 102–378, § 2(62), Oct. 2, 1992, 106 Stat. 1354.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–496 substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees which was formerly set out as a note under section 403 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

§ 403r–1. Portability of overseas service retirement benefit

The special accrual rates provided by section 2153 of this title and by section 403r of this title for computation of the annuity of an individual who has served abroad as an officer or employee of the Central Intelligence Agency shall be used to compute that portion of the annuity of such individual relating to such service abroad whether or not the individual is employed by the Central Intelligence Agency at the time of retirement from Federal service.

(Pub. L. 101–193, title III, § 306, Nov. 30, 1989, 103 Stat. 1704; Pub. L. 103–178, title II, § 204(a), Dec. 3, 1993, 107 Stat. 2033.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act, Fiscal Year 1990, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, nor as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Pub. L. 103–178 substituted reference to section 2153 of this title for reference in original to section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

§ 403s. Special rules for disability retirement and death-in-service benefits with respect to certain employees

(a) Officers and employees to whom section 2051 rules apply

Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system

[1] See References in Text note below.

coverage under subchapter III of chapter 83 of title 5 who—

(1) has five years of civilian service credit toward retirement under such subchapter III of chapter 83, title 5;

(2) has not been designated under section 2013 of this title,[1] as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and

(4) satisfies the requirements for disability retirement under section 8337 of title 5—

shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in section 2051 of this title, in lieu of an annuity computed as provided by section 8337 of title 5.

(b) Survivors of officers and employees to whom section 2052 rules apply

Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, who—

(1) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5;

(2) has not been designated under section 2013 of this title,[1] as a participant in the Central Intelligence Agency Retirement and Disability System;

(3) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and

(4) is survived by a surviving spouse, former spouse, or child as defined in section 2002 of this title, who would otherwise be entitled to an annuity under section 8341 of title 5—

such surviving spouse, former spouse, or child of such officer or employee shall be entitled to an annuity computed in accordance with section 2052 of this title, in lieu of an annuity computed in accordance with section 8341 of title 5.

(c) Annuities under this section deemed annuities under chapter 83 of title 5

The annuities provided under subsections (a) and (b) of this section shall be deemed to be annuities under chapter 83 of title 5 for purposes of the other provisions of such chapter and other laws (including title 26) relating to such annuities, and shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained pursuant to section 2012 of this title.

(June 20, 1949, ch. 227, §19, as added Pub. L. 101–193, title III, §307(a), Nov. 30, 1989, 103 Stat. 1705; amended Pub. L. 102–496, title VIII, §803(a)(3), Oct. 24, 1992, 106 Stat. 3252; Pub. L. 103–178, title V, §501(3), Dec. 3, 1993, 107 Stat. 2038.)

[1] So in original. The comma probably should not appear.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–178, §501(3)(A), (C), substituted ''section 2052'' for ''section 2051'' in heading and closing provisions.

Subsec. (b)(2). Pub. L. 103–178, §501(3)(B), made technical amendment to reference to section 2013 of this title to update reference to corresponding section of original act.

1992—Subsec. (a). Pub. L. 102–496, §803(a)(3)(A), inserted heading, redesignated cl. (i) as par. (1), in cl. (ii), substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, which was formerly set out as a note under section 403 of this title, and redesignated such cl. as par. (2), in cl. (iii), inserted ''such'' before reference to section 2013 of this title and redesignated such cl. as par. (3), redesignated cl. (iv) as par. (4), and substituted reference to section 2051 of this title for ''such section 231'' in concluding provisions.

Subsec. (b). Pub. L. 102–496, §803(a)(3)(B)(i), (ii), (iv)–(vi), inserted heading, redesignated cl. (i) as par. (1), in cl. (ii), substituted reference to section 2013 of this title for reference in original to section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, which was formerly set out as a note under section 403 of this title, and redesignated cl. (ii) as par. (2), redesignated cls. (iii) and (iv) as pars. (3) and (4), respectively, and in concluding provisions, substituted ''surviving spouse, former spouse, or child'' for ''widow or widower, former spouse, and/or child or children'' and substituted reference to section 2051 of this title for ''such section 232''.

Pub. L. 102–496, §803(a)(3)(B)(iii), which directed the substitution of ''surviving spouse, former spouse, or child as defined in section 2002 of this title'' in cl. (iv) for ''widow or widower, former spouse, and/or child or children as defined in section 204 and section 232 of such the Central Intelligence Agency Retirement Act of 1964 for Certain Employees'', was executed by making the substitution for ''widow or widower, former spouse, and/or a child or children as defined in section 204 and section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees'', to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 102–496, §803(a)(3)(D)(i)–(iii), inserted heading, struck out par. (1) designation before ''The annuities provided'', substituted ''maintained pursuant to section 2012 of this title'' for ''established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees'', and struck out par. (2) which read as follows: ''The annuities and/or other benefits provided under subsections (c) and (d) of this section shall be deemed to be annuities and/or benefits under chapter 84 of title 5 for purposes of the other provisions of such chapter and other laws (including title 26) relating to such annuities and/or benefits, but shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.''

Pub. L. 102–496, §803(a)(3)(C), (D), redesignated subsec. (e) as (c) and struck out former subsec. (c) which provided for retirement of officers and employees of the Central Intelligence Agency as though designated pursuant to section 302(a) of Pub. L. 88–643 which was formerly set out as a note under section 403 of this title.

Subsec. (d). Pub. L. 102–496, §803(a)(3)(C), struck out subsec. (d) which provided that survivors of officers and employees of the Central Intelligence Agency were to receive benefits as though deceased had been designated pursuant to section 302(a) of Pub. L. 88–643, which was formerly set out as a note under section 403 of this title.

Subsec. (e). Pub. L. 102–496, § 803(a)(3)(D), redesignated subsec. (e) as (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–496 effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102–496, set out as an Effective Date note under section 2001 of this title.

§ 403t. General Counsel of Central Intelligence Agency

(a) Appointment

There is a General Counsel of the Central Intelligence Agency, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Chief legal officer

The General Counsel is the chief legal officer of the Central Intelligence Agency.

(c) Functions

The General Counsel of the Central Intelligence Agency shall perform such functions as the Director may prescribe.

(June 20, 1949, ch. 227, § 20, as added Pub. L. 104–293, title VIII, § 813(a), Oct. 11, 1996, 110 Stat. 3483; amended Pub. L. 108–458, title I, § 1071(b)(2)(D), Dec. 17, 2004, 118 Stat. 3690.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–458 struck out ''of Central Intelligence'' after ''Director''.

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 401 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 401 of this title.

APPLICABILITY OF APPOINTMENT REQUIREMENTS

Section 813(b) of Pub. L. 104–293 provided that: ''The requirement established by section 20 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403t], as added by subsection (a), for the appointment by the President, by and with the advice and consent of the Senate, of an individual to the position of General Counsel of the Central Intelligence Agency shall apply as follows:

''(1) To any vacancy in such position that occurs after the date of the enactment of this Act [Oct. 11, 1996].

''(2) To the incumbent serving in such position on the date of the enactment of this Act as of the date that is six months after such date of enactment, if such incumbent has served in such position continuously between such date of enactment and the date that is six months after such date of enactment.''

§ 403u. Central services program

(a) In general

The Director may carry out a program under which elements of the Agency provide items and services on a reimbursable basis to other elements of the Agency, nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other Government agencies. The Director shall carry out the program in accordance with the provisions of this section.

(b) Participation of Agency elements

(1) In order to carry out the program, the Director shall—

(A) designate the elements of the Agency that are to provide items or services under the program (in this section referred to as ''central service providers'');

(B) specify the items or services to be provided under the program by such providers; and

(C) assign to such providers for purposes of the program such inventories, equipment, and other assets (including equipment on order) as the Director determines necessary to permit such providers to provide items or services under the program.

(2) The designation of elements and the specification of items and services under paragraph (1) shall be subject to the approval of the Director of the Office of Management and Budget.

(c) Central Services Working Capital Fund

(1) There is established a fund to be known as the Central Services Working Capital Fund (in this section referred to as the ''Fund''). The purpose of the Fund is to provide sums for activities under the program.

(2) There shall be deposited in the Fund the following:

(A) Amounts appropriated to the Fund.

(B) Amounts credited to the Fund from payments received by central service providers under subsection (e) of this section.

(C) Fees imposed and collected under subsection (f)(1) of this section.

(D) Amounts received in payment for loss or damage to equipment or property of a central service provider as a result of activities under the program.

(E) Other receipts from the sale or exchange of equipment or property of a central service provider as a result of activities under the program.

(F) Receipts from individuals in reimbursement for utility services and meals provided under the program.

(G) Receipts from individuals for the rental of property and equipment under the program.

(H) Such other amounts as the Director is authorized to deposit in or transfer to the Fund.

(3) Amounts in the Fund shall be available, without fiscal year limitation, for the following purposes:

(A) To pay the costs of providing items or services under the program.

(B) To pay the costs of carrying out activities under subsection (f)(2) of this section.

(d) Limitation on amount of orders

The total value of all orders for items or services to be provided under the program in any fiscal year may not exceed an amount specified in

advance by the Director of the Office of Management and Budget.

(e) Payment for items and services

(1) A Government agency provided items or services under the program shall pay the central service provider concerned for such items or services an amount equal to the costs incurred by the provider in providing such items or services plus any fee imposed under subsection (f) of this section. In calculating such costs, the Director shall take into account personnel costs (including costs associated with salaries, annual leave, and workers' compensation), plant and equipment costs (including depreciation of plant and equipment other than structures owned by the Agency), operation and maintenance expenses, amortized costs, and other expenses.

(2) Payment for items or services under paragraph (1) may take the form of an advanced payment by an agency from appropriations available to such agency for the procurement of such items or services.

(f) Fees

(1) The Director may permit a central service provider to impose and collect a fee with respect to the provision of an item or service under the program. The amount of the fee may not exceed an amount equal to four percent of the payment received by the provider for the item or service.

(2) The Director may obligate and expend amounts in the Fund that are attributable to the fees imposed and collected under paragraph (1) to acquire equipment or systems for, or to improve the equipment or systems of, central service providers and any elements of the Agency that are not designated for participation in the program in order to facilitate the designation of such elements for future participation in the program.

(g) Termination

(1) Subject to paragraph (2), the Director of the Central Intelligence Agency and the Director of the Office of Management and Budget, acting jointly—

(A) may terminate the program under this section and the Fund at any time; and

(B) upon such termination, shall provide for the disposition of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the program or the Fund.

(2) The Director of the Central Intelligence Agency and the Director of the Office of Management and Budget may not undertake any action under paragraph (1) until 60 days after the date on which the Directors jointly submit notice of such action to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(June 20, 1949, ch. 227, §21, as added Pub. L. 105–107, title IV, §403(a), Nov. 20, 1997, 111 Stat. 2258; amended Pub. L. 106–120, title IV, §401, Dec. 3, 1999, 113 Stat. 1615; Pub. L. 106–567, title IV, §401, Dec. 27, 2000, 114 Stat. 2847; Pub. L. 107–108, title IV, §401, Dec. 28, 2001, 115 Stat. 1403; Pub. L. 107–306, title VIII, §841(e), Nov. 27, 2002, 116 Stat. 2432; Pub. L. 108–177, title IV, §403, Dec. 13, 2003, 117 Stat. 2632; Pub. L. 108–458, title I, §1071(b)(3)(D), (E), Dec. 17, 2004, 118 Stat. 3691.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (g)(1). Pub. L. 108–458, §1071(b)(3)(D), substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (g)(2). Pub. L. 108–458, §1071(b)(3)(E), substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

2003—Subsec. (f)(2). Pub. L. 108–177 substituted ''The Director'' for ''(A) Subject to subparagraph (B), the Director'' and struck out subpar. (B) which read as follows: ''The Director may not expend amounts in the Fund for purposes specified in subparagraph (A) in fiscal year 1998, 1999, or 2000 unless the Director—

''(i) secures the prior approval of the Director of the Office of Management and Budget; and

''(ii) submits notice of the proposed expenditure to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.''

2002—Subsecs. (g), (h). Pub. L. 107–306 redesignated subsec. (h) as (g) and struck out former subsec. (g), which required annual audit of program activities, set forth provisions relating to form, content, and procedures, and required submission of copies to the Director of the Office of Management and Budget, the Director of Central Intelligence, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

2001—Subsec. (g)(1). Pub. L. 107–108, §401(a), substituted ''January 31'' for ''December 31'' and ''complete an audit'' for ''conduct an audit''.

Subsec. (h). Pub. L. 107–108, §401(b), redesignated pars. (2) and (3) as (1) and (2), respectively, substituted ''paragraph (2)'' for ''paragraph (3)'' in par. (1) and ''paragraph (1)'' for ''paragraph (2)'' in par. (2), and struck out former par. (1) which read as follows: ''The authority of the Director to carry out the program under this section shall terminate on March 31, 2002.''.

2000—Subsec. (c)(2)(F) to (H). Pub. L. 106–567, §401(a), added subpars. (F) and (G) and redesignated former subpar. (F) as (H).

Subsec. (e)(1). Pub. L. 106–567, §401(b), in second sentence, inserted ''other than structures owned by the Agency'' after ''depreciation of plant and equipment''.

Subsec. (g)(2). Pub. L. 106–567, §401(c), substituted ''financial statements to be prepared with respect to the program. Office of Management and Budget guidance shall also determine the procedures for conducting annual audits under paragraph (1).'' for ''annual audits under paragraph (1)''.

1999—Subsec. (a). Pub. L. 106–120, §401(a), substituted '', nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other'' for ''and to other''.

Subsec. (c)(2)(D). Pub. L. 106–120, §401(b)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''Amounts collected in payment for loss or damage to equipment or other property of a central service provider as a result of activities under the program.''

Subsec. (c)(2)(E), (F). Pub. L. 106–120, §401(b)(2), (3), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (f)(2)(A). Pub. L. 106–120, §401(c), inserted ''central service providers and any'' before ''elements of the Agency''.

Subsec. (h)(1). Pub. L. 106–120, § 401(d), substituted ''2002'' for ''2000''.

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 401 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 401 of this title.

AVAILABILITY OF FUNDS CREDITED TO CENTRAL SERVICES WORKING CAPITAL FUND

Pub. L. 111–118, div. A, title VIII, § 8035, Dec. 19, 2009, 123 Stat. 3436, provided in part: ''That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. C, title VIII, § 8035, Sept. 30, 2008, 122 Stat. 3629.

Pub. L. 110–116, div. A, title VIII, § 8035, Nov. 13, 2007, 121 Stat. 1322.

Pub. L. 109–289, div. A, title VIII, § 8033, Sept. 29, 2006, 120 Stat. 1281.

Pub. L. 109–148, div. A, title VIII, § 8038, Dec. 30, 2005, 119 Stat. 2707.

Pub. L. 108–287, title VIII, § 8042, Aug. 5, 2004, 118 Stat. 979.

Pub. L. 108–87, title VIII, § 8042, Sept. 30, 2003, 117 Stat. 1081.

Pub. L. 107–248, title VIII, § 8042, Oct. 23, 2002, 116 Stat. 1546.

Pub. L. 107–117, div. A, title VIII, § 8045, Jan. 10, 2002, 115 Stat. 2257.

Pub. L. 106–259, title VIII, § 8045, Aug. 9, 2000, 114 Stat. 684.

Pub. L. 106–79, title VIII, § 8048, Oct. 25, 1999, 113 Stat. 1241.

Pub. L. 105–262, title VIII, § 8048, Oct. 17, 1998, 112 Stat. 2307.

§ 403v. Detail of employees

The Director may—

(1) detail any personnel of the Agency on a reimbursable basis indefinitely to the National Reconnaissance Office without regard to any limitation under law on the duration of details of Federal Government personnel; and

(2) hire personnel for the purpose of any detail under paragraph (1).

(June 20, 1949, ch. 227, § 22, as added Pub. L. 106–567, title IV, § 404, Dec. 27, 2000, 114 Stat. 2848.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403w. Intelligence operations and cover enhancement authority

(a) Definitions

In this section—

(1) the term ''designated employee'' means an employee designated by the Director of the Central Intelligence Agency under subsection (b) of this section; and

(2) the term ''Federal retirement system'' includes the Central Intelligence Agency Retirement and Disability System, and the Federal Employees' Retirement System (including the Thrift Savings Plan).

(b) In general

(1) Authority

Notwithstanding any other provision of law, the Director of the Central Intelligence Agency may exercise the authorities under this section in order to—

(A) protect from unauthorized disclosure—

(i) intelligence operations;

(ii) the identities of undercover intelligence officers;

(iii) intelligence sources and methods; or

(iv) intelligence cover mechanisms; or

(B) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency.

(2) Designation of employees

The Director of the Central Intelligence Agency may designate any employee of the Agency who is under nonofficial cover to be an employee to whom this section applies. Such designation may be made with respect to any or all authorities exercised under this section.

(c) Compensation

The Director of the Central Intelligence Agency may pay a designated employee salary, allowances, and other benefits in an amount and in a manner consistent with the nonofficial cover of that employee, without regard to any limitation that is otherwise applicable to a Federal employee. A designated employee may accept, utilize, and, to the extent authorized by regulations prescribed under subsection (i) of this section, retain any salary, allowances, and other benefits provided under this section.

(d) Retirement benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a nonofficial cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A designated employee may not participate in the retirement system established under this paragraph and another Federal retirement system at the same time.

(2) Conversion to other Federal retirement system

(A) In general

A designated employee participating in the retirement system established under paragraph (1) may convert to coverage under the Federal retirement system which would otherwise apply to that employee at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

(i) intelligence operations;

(ii) the identities of undercover intelligence officers;

(iii) intelligence sources and methods; or

(iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

(i) all periods of service under the retirement system established under this subsection shall be deemed periods of creditable service under the applicable Federal retirement system;

(ii) the Director of the Central Intelligence Agency shall transmit an amount for deposit in any applicable fund of that Federal retirement system that—

(I) is necessary to cover all employee and agency contributions including—

(aa) interest as determined by the head of the agency administering the Federal retirement system into which the employee is converting; or

(bb) in the case of an employee converting into the Federal Employees' Retirement System, interest as determined under section 8334(e) of title 5; and

(II) ensures that such conversion does not result in any unfunded liability to that fund; and

(iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, the Director of the Central Intelligence Agency may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

(C) Transmitted amounts

(i) In general

Amounts described under subparagraph (B)(ii) shall be paid from the fund or appropriation used to pay the designated employee.

(ii) Offset

The Director of the Central Intelligence Agency may use amounts contributed by the designated employee to a retirement system established under paragraph (1) to offset amounts paid under clause (i).

(D) Records

The Director of the Central Intelligence Agency shall transmit all necessary records relating to a designated employee who converts to a Federal retirement system under this paragraph (including records relating to periods of service which are deemed to be periods of creditable service under subparagraph (B)) to the head of the agency administering that Federal retirement system.

(e) Health insurance benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a nonofficial cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the health insurance program established under this paragraph and the program under chapter 89 of title 5 at the same time.

(2) Conversion to Federal employees health benefits program

(A) In general

A designated employee participating in the health insurance program established under paragraph (1) may convert to coverage under the program under chapter 89 of title 5 at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

(i) intelligence operations;

(ii) the identities of undercover intelligence officers;

(iii) intelligence sources and methods; or

(iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

(i) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;

(ii) any requirement of prior enrollment in a health benefits plan under chapter 89 of that title for continuation of coverage purposes shall not apply;

(iii) the employee shall be deemed to have had coverage under chapter 89 of that title from the first opportunity to enroll for purposes of continuing coverage as an annuitant; and

(iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Health Benefits Fund that is necessary to cover any costs of such conversion.

(C) Transmitted amounts

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

(f) Life insurance benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a nonofficial cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the life insurance program established under this paragraph and the program under chapter 87 of title 5 at the same time.

(2) Conversion to Federal employees group life insurance program

(A) In general

A designated employee participating in the life insurance program established under

paragraph (1) may convert to coverage under the program under chapter 87 of title 5 at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the life insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

(i) intelligence operations;

(ii) the identities of undercover intelligence officers;

(iii) intelligence sources and methods; or

(iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

(i) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;

(ii) any requirement of prior enrollment in a life insurance program under chapter 87 of that title for continuation of coverage purposes shall not apply;

(iii) the employee shall be deemed to have had coverage under chapter 87 of that title for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage as an annuitant; and

(iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Life Insurance Fund that is necessary to cover any costs of such conversion.

(C) Transmitted amounts

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

(g) Exemption from certain requirements

The Director of the Central Intelligence Agency may exempt a designated employee from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Director of the Central Intelligence Agency determines—

(1) would be inconsistent with the nonofficial cover of that employee; and

(2) could expose that employee to detection as a Federal employee.

(h) Taxation and social security

(1) In general

Notwithstanding any other provision of law, a designated employee—

(A) shall file a Federal or State tax return as if that employee is not a Federal employee and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that employee was not a Federal employee, if the Director of the Central Intelligence Agency determines that taking any action under this paragraph is necessary to—

(i) protect from unauthorized disclosure—

(I) intelligence operations;

(II) the identities of undercover intelligence officers;

(III) intelligence sources and methods; or

(IV) intelligence cover mechanisms; and

(ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

(B) shall receive social security benefits based on the social security contributions made.

(2) Internal Revenue Service review

The Director of the Central Intelligence Agency shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

(i) Regulations

The Director of the Central Intelligence Agency shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director of the Central Intelligence Agency to be necessary to exercise the authority in subsection (b) of this section, the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

(j) Finality of decisions

Any determinations authorized by this section to be made by the Director of the Central Intelligence Agency or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

(k) Subsequently enacted laws

No law enacted after the effective date of this section shall affect the authorities and provisions of this section unless such law specifically refers to this section.

(June 20, 1949, ch. 227, § 23, as added Pub. L. 108–487, title IV, § 402, Dec. 23, 2004, 118 Stat. 3946.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (k), is the date of enactment of Pub. L. 108–487, which was approved December 23, 2004. See section 801 of Pub. L. 108–487, set out as an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 403x. Separation pay program for voluntary separation from service

(a) Definitions

For purposes of this section—

(1) the term ''Director'' means the Director of the Central Intelligence Agency;[1]

[1] So in original. Probably should be followed by ''and''.

(2) the term ''employee'' means an employee of the Central Intelligence Agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5 or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(b) Establishment of program

In order to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, the Director may establish a program under which employees may be offered separation pay to separate from service voluntarily (whether by retirement or resignation). An employee who receives separation pay under such program may not be reemployed by the Central Intelligence Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined by section 105 of title 5), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(c) Bar on certain employment

(1) Bar

An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the Central Intelligence Agency; or

(B) participate in any manner in the award, modification, extension, or performance of any contract for property or services with the Central Intelligence Agency,

during the 12-month period beginning on the effective date of the employee's separation from service.

(2) Penalty

An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section times the proportion of the 12-month period during which the employee was in violation of the agreement.

(d) Limitations

Under this program, separation pay may be offered only—

(1) with the prior approval of the Director; and

(2) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(e) Amount and treatment for other purposes

Such separation pay—

(1) shall be paid in a lump sum;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, if the employee were entitled to payment under such section; or

(B) $25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(4) shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5 based on any other separation.

(f) Regulations

The Director shall prescribe such regulations as may be necessary to carry out this section.

(g) Reporting requirements

(1) Offering notification

The Director may not make an offering of voluntary separation pay pursuant to this section until 30 days after submitting to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (d) of this section.

(2) Annual report

At the end of each of the fiscal years 1993 through 1997, the Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the effectiveness and costs of carrying out this section.

(Pub. L. 103–36, § 2, June 8, 1993, 107 Stat. 104; Pub. L. 103–226, § 8(b), Mar. 30, 1994, 108 Stat. 118;

Pub. L. 104–93, title IV, § 401, Jan. 6, 1996, 109 Stat. 968; Pub. L. 104–293, title IV, § 401, Oct. 11, 1996, 110 Stat. 3468; Pub. L. 106–120, title IV, § 402, Dec. 3, 1999, 113 Stat. 1616; Pub. L. 107–108, title IV, § 402, Dec. 28, 2001, 115 Stat. 1403; Pub. L. 107–306, title IV, § 401, Nov. 27, 2002, 116 Stat. 2403; Pub. L. 108–458, title I, § 1071(d), Dec. 17, 2004, 118 Stat. 3691; Pub. L. 108–487, title IV, § 401(a), (b)(1), Dec. 23, 2004, 118 Stat. 3945, 3946.)

CODIFICATION

Section was formerly set out as a note under section 403–4 of this title.

Section was enacted as part of the Central Intelligence Agency Voluntary Separation Pay Act, and not as part of the Central Intelligence Agency Act of 1949 which is classified to section 403a et seq. of this title, or as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(d), amended par. (1) generally. Prior to amendment, par. (1) read: ''the term 'Director' means the Director of Central Intelligence; and''.

Subsecs. (f) to (h). Pub. L. 108–487, § 401(a), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f), which related to termination of payments under this section.

Subsec. (i). Pub. L. 108–487, § 401(b)(1), struck out subsec. (i) which related to remittance of funds.

2002—Subsec. (f). Pub. L. 107–306, § 401(1), substituted ''September 30, 2005'' for ''September 30, 2003''.

Subsec. (i). Pub. L. 107–306, § 401(2), substituted ''2003, 2004, or 2005'' for ''or 2003''.

2001—Subsec. (f). Pub. L. 107–108, § 402(1), substituted ''September 30, 2003'' for ''September 30, 2002''.

Subsec. (i). Pub. L. 107–108, § 402(2), substituted ''2002, or 2003'' for ''or 2002''.

1999—Subsec. (f). Pub. L. 106–120, § 402(a), substituted ''September 30, 2002'' for ''September 30, 1999''.

Subsec. (i). Pub. L. 106–120, § 402(b), substituted '', 1999, 2000, 2001, or 2002'' for ''or fiscal year 1999''.

1996—Subsec. (f). Pub. L. 104–93, § 401(a), substituted ''September 30, 1999'' for ''September 30, 1997''.

Subsec. (i). Pub. L. 104–293 inserted at end: ''The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).''

Pub. L. 104–93, § 401(b), added subsec. (i).

1994—Subsec. (b). Pub. L. 103–226, § 8(b), inserted four sentences at end relating to repayment of separation pay requirement.

EFFECTIVE DATE OF 2004 AMENDMENT

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 401 of this title.

§ 404. Emergency preparedness

(a) Employment of personnel

The Administrator of the Federal Emergency Management Agency, subject to the direction of the President, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to assist him in carrying out his functions.

(b) Functions

It shall be the function of the Administrator of the Federal Emergency Management Agency to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

(c) Utilization of Government resources and facilities

In performing his functions, the Administrator of the Federal Emergency Management Agency shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

(July 26, 1947, ch. 343, title I, § 107, formerly § 103, 61 Stat. 499; Oct. 28, 1949, ch. 782, title IX, § 1106(a), 63 Stat. 972; 1950 Reorg. Plan No. 25, § 1, eff. July 9, 1950, 15 F.R. 4366, 64 Stat. 1280; 1953 Reorg. Plan No. 3, § 2(a), eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634; Sept. 3, 1954, ch. 1263, § 50, 68 Stat. 1244; 1958 Reorg. Plan No. 1, § 2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Pub. L. 90–608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194; Ex. Ord. No. 11725, § 3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§ 1–103, 4–102, July 20, 1979, 44 F.R. 43239; renumbered § 107, Pub. L. 102–496, title VII, § 705(a)(2), Oct. 24, 1992, 106 Stat. 3190; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

In subsec. (a), ''chapter 51 and subchapter III of chapter 53 of title 5'' substituted for ''the Classification Act of 1949'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1954—Act Sept. 3, 1954, struck out subsec. (a) relating to establishment of National Security Resources Board,

and redesignated subsecs. (b) to (d) as subsecs. (a) to (c), respectively.

1949—Subsec. (b). Act Oct. 28, 1949, substituted ''Classification Act of 1949'' for ''Classification Act of 1923''.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

''Administrator of the Federal Emergency Management Agency'' substituted for ''Chairman of the Board'' in subsec. (a), and for ''Board'' in subsecs. (b) and (c), on authority of the following:

''Chairman of the Board'', meaning Chairman of National Security Resources Board, substituted in subsecs. (b) and (c) for ''Board'', meaning National Security Resources Board, on authority of section 1 of Reorg. Plan No. 25 of 1950, set out below.

''Director of the Office of Defense Mobilization'' substituted in text for ''Chairman of Board'' meaning National Security Resources Board, pursuant to Reorg. Plan No. 3 of 1953, §§1(a), 2(a), and 6, eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634, set out below, which established Office of Defense Mobilization, as an agency within Executive Office of President, abolished National Security Resources Board, and transferred to Director of Office of Defense Mobilization functions, records, property, personnel, and funds of Board.

Office of Defense Mobilization and Federal Civil Defense Administration consolidated to form Office of Emergency Planning, an agency within Executive Office of President, by section 2 of Reorg. Plan No. 1 of 1958, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended, set out in the Appendix to Title 5, Government Organization and Employees, and functions vested by law in Office of Defense Mobilization and Director thereof transferred to President, with power to delegate, by section 1 of Reorg. Plan No. 1 of 1958.

Office of Emergency Planning changed to Office of Emergency Preparedness pursuant to section 402 of Pub. L. 90–608, Oct. 21, 1968, 82 Stat. 1194, which provided that references in laws to Office of Emergency Planning after Oct. 21, 1968, should be deemed references to Office of Emergency Preparedness.

Office of Emergency Preparedness, including offices of Director, Deputy Director, Assistant Directors, and Regional Directors, abolished and functions vested by law in Office of Emergency Preparedness transferred to President of United States by sections 1 and 3(a)(1) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out in the Appendix to Title 5, Government Organization and Employees.

Functions vested in Director of Office of Emergency Preparedness as of June 30, 1973, by Executive Order, proclamation, or other directive issued by or on behalf of President or otherwise under this section and Ex. Ord. No. 10421, formerly set out below, with certain exceptions, transferred to Administrator of General Services by Ex. Ord. No. 11725, §3, June 27, 1973, 38 F.R. 17175, formerly set out under section 2271 of the Appendix to this title, to be exercised in conformance with such guidance as provided by National Security Council and, with respect to economic and disposal aspects of stockpiling of strategic and critical materials by Council on Economic Policy. Functions of Administrator of General Services under this chapter performed by Federal Preparedness Agency within General Services Administration.

Functions of Director of Office of Defense Mobilization under this section, which were previously transferred to President, delegated to Secretary of Homeland Security by sections 1–103 and 4–102 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsecs. (a) to (c) on authority of section 612(c) of Pub. L. 109–295, set out as a Change of Name note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Homeland Security, see parts 1, 2, and 17 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, as amended, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

OFFICE OF EMERGENCY PLANNING

Pub. L. 87–296, §2, Sept. 22, 1961, 75 Stat. 630, provided that: ''Any reference in any other law to the Office of Civil and Defense Mobilization shall, after the date of this Act [Sept. 22, 1961], be deemed to refer to the Office of Emergency Planning.''

REORGANIZATION PLAN NO. 25 OF 1950

Eff. July 9, 1950, 15 F.R. 4366, 64 Stat. 1280

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

NATIONAL SECURITY RESOURCES BOARD

SECTION 1. FUNCTIONS OF CHAIRMAN AND OF BOARD

The functions of the National Security Resources Board are hereby transferred to the Chairman of the National Security Resources Board, and the Board shall hereafter advise and consult with the Chairman with respect to such matters within his jurisdiction as he may request.

SEC. 2. VICE CHAIRMAN

There is hereby established the office of Vice Chairman of the National Security Resources Board. Such Vice Chairman shall (1) be an additional member of the National Security Resources Board, (2) be appointed from civilian life by the President, by and with the advice and consent of the Senate, (3) receive compensation at the rate of $16,000 per annum, and (4) perform such of the duties of the Chairman as the Chairman shall designate.

SEC. 3. PERFORMANCE OF FUNCTIONS OF CHAIRMAN

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the National Security Resources Board of any function of the Chairman.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 25 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers the function of the National Security Resources Board from the Board to the Chairman of the Board and makes the

Board advisory to the Chairman. The plan also provides for a Vice Chairman, appointed by the President and confirmed by the Senate.

The function assigned to the National Security Resources Board by the National Security Act of 1947 is ''to advise the President concerning the coordination of military, industrial and civilian mobilization.'' Proper performance of this function requires action by the Board and its staff in two broad areas:

(1) The conduct of advance mobilization planning which identifies the problems which will arise and the measures necessary to meet these problems if and when the Nation moves from a peacetime into a wartime situation.

(2) The formulation of current policies and programs which will help the Nation achieve an adequate state of readiness against the eventuality of a future war.

The role assigned the National Security Resources Board is clearly one of staff assistance to the President. The Congress recently recognized this fact in its approval of Reorganization Plan No. 4 of 1949 which, pursuant to the specific recommendation of the Hoover Commission, placed the National Security Resources Board in the Executive Office of the President.

The accompanying reorganization plan is designed to make the National Security Resources Board a more effective instrument. Successful performance of the Board's mission requires a wide range of detailed study and analysis to cover all the major aspects of national mobilization. A committee of department heads or departmental representatives encounters some natural difficulties in providing supervision and leadership in such an extensive and detailed activity. The Chairman has the difficult task of exercising discretion as to which matters shall be submitted for Board approval. The departmental members of the Board cannot possibly supervise or approve the Board's extensive and detailed activities and yet, as Board members, must accept ultimate responsibility for all such activities. Likewise, the departmental members are encumbered by the difficulty of having to reach collective and speedy decisions on a great many matters for which they, as Board members, are responsible.

By vesting the functions of the Board in the Chairman, the difficulties of Board operation will be overcome. At the same time, the reorganization plan provides for the continued participation of the several departments and agencies in the task of mobilization planning. This is not only a matter of established policy but also a requirement of the National Security Act. The departments will continue to have representation on the Board. The Board, in an advisory relationship to the Chairman, will be a useful arrangement for obtaining the necessary participation of departments in mobilization planning and for coordination of their activity. It will enable the departments to keep abreast of the total range of security resources planning. Without reliance on the departments for the execution of much of the actual job of mobilization planning, coordination with the total range of governmental policies and objectives would be lost.

The Congress in passing the National Security Act Amendments of 1949 recognized the difficulty which exists when functions of staff advice and assistance are placed in a board-type agency. The National Security Act Amendments of 1949, in clarifying the role of the Chairman of the Munitions Board and the Research and Development Board, strengthened and increased the effectiveness of these staff agencies of the Secretary of Defense by providing for the exclusive exercise of responsibilities by the Chairman. This plan achieves the same objective for the National Security Resources Board.

The accompanying reorganization plan provides for a Vice Chairman appointed by the President and confirmed by the Senate. The tremendous responsibilities of the National Security Resources Board and the heavy workload on the Chairman fully warrant this. Providing the Chairman with a principal associate for the exercise of his responsibilities is consistent with the usual practice in other agencies of the executive branch.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 25 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of a Vice Chairman of the National Security Resources Board. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 25 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in security resources planning.

The security of this Nation requires that these steps be taken to enable security resources planning to move forward more effectively. It is for that reason that Reorganization Plan No. 25 is today submitted to the Congress. It is for that reason, and that reason alone, that I strongly urge congressional acceptance of Reorganization Plan No. 25.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 9, 1950.

REORGANIZATION PLAN NO. 3 OF 1953

Eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 2, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

OFFICE OF DEFENSE MOBILIZATION

SECTION 1. ESTABLISHMENT OF OFFICE

(a) There is hereby established in the Executive Office of the President a new agency which shall be known as the Office of Defense Mobilization, hereinafter referred to as the ''Office.''

(b) There shall be at the head of the Office a Director of the Office of Defense Mobilization, hereinafter referred to as the ''Director,'' who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $22,500 per annum.

(c) There shall be in the Office a Deputy Director of the Office of Defense Mobilization, who shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate of $17,500 per annum, shall perform such functions as the Director shall designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

SEC. 2. TRANSFER OF FUNCTIONS

There are hereby transferred to the Director:

(a) All functions of the Chairman of the National Security Resources Board, including his functions as a member of the National Security Council, but excluding the functions abolished by section 5(a) of this reorganization plan.

(b) All functions under the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), vested in the Secretaries of the Army, Navy, Air Force, and Interior or in any of them or in any combination of them, including the functions which were vested in the Army and Navy Munitions Board by the item No. (2) in section 6(a) of the said Act (60 Stat. 598) [former section 98e(a)(2) of this title], but excluding functions vested in the Secretary of the Interior by section 7 of said Act [former section 98f of this title].

(c) The functions vested in the Munitions Board by section 4(h) of the Commodity Credit Corporation Char-

ter Act, as amended (15 U.S.C. 714b(h)), and by section 204(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(e)) [now 40 U.S.C. 574(c)].

(d) All functions now vested by any statute in the Director of Defense Mobilization or in the Office of Defense Mobilization provided for in Executive Order Numbered 10193 (15 F.R. 9031) [revoked by Ex. Ord. No. 10480, 18 F.R. 4939, formerly set out as a note under section 2153 of Appendix to this title].

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

(a) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Office, of any function of the Director, exclusive of the function of being a member of the National Security Council.

(b) When authorized by the Director, any function transferred to him by the provisions of this reorganization plan (exclusive of the function of being a member of the National Security Council) may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate.

(c) In addition to the representatives who by virtue of the last sentence of section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [former section 98a(a) of this title], and section 2 of this reorganization plan are designated to cooperate with the Director, the Secretary of Defense, the Secretary of the Interior, and the heads of such other agencies having functions regarding strategic or critical materials as the Director shall from time to time designate, shall each designate representatives who shall similarly cooperate with the Director.

SEC. 4. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There shall be transferred with the functions transferred by this reorganization plan from the Chairman of the National Security Resources Board and the Department of Defense, respectively, so much of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, used, held, employed, available, or to be made available in connection with the said functions, as the Director shall determine to be required for the performance of the transferred functions by the Office, but all transfers from the Department of Defense under the foregoing provisions of this section shall be subject to the approval of the Secretary of Defense.

SEC. 5. ABOLITION OF FUNCTIONS

(a) The functions of the Chairman of the National Security Resources Board under section 18 of the Universal Military Training and Service Act (50 U.S.C. App. 468), as affected by Reorganization Plan Numbered 25 of 1950 (64 Stat. 1280) [set out above], with respect to being consulted by and furnishing advice to the President as required by that section, are hereby abolished.

(b) So much of the functions of the Secretary of Defense under section 202(b) of the National Security Act of 1947, as amended [see 10 U.S.C. 113(b)], as consists of direction, authority, and control over functions transferred by this reorganization plan is hereby abolished.

(c) Any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as agent through which the Secretaries of the Army, Navy, Air Force, and Interior jointly act, under section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [former section 98a of this title], are hereby abolished.

SEC. 6. ABOLITION OF NATIONAL SECURITY RESOURCES BOARD

The National Security Resources Board (established by the National Security Act of 1947, 61 Stat. 499 [this section]), including the offices of Chairman and Vice Chairman of the National Security Resources Board, is hereby abolished, and the Director shall provide for winding up any outstanding affairs of the said Board or offices not otherwise provided for in this reorganization plan.

[For subsequent history relating to Office of Defense Mobilization, see notes set out under this section.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

The reorganization plan is designed to achieve two primary objectives: The first is to improve the organization of the Executive Office of the President; the second is to enable one Executive Office agency to exercise strong leadership in our national mobilization effort, including both current defense activities and readiness for any future national emergency.

The National Security Resources Board was established by the National Security Act of 1947 to advise the President concerning various aspects of future military, industrial, and civilian mobilization. The areas of responsibility assigned to the Board included the use of national and industrial resources for military and civilian needs; the sufficiency of productive facilities; the strategic relocation of industries; the mobilization and maximum utilization of manpower; and the maintenance and stabilization of the civilian economy.

The vigorous and efficient discharge of these vital functions is not well served by the simultaneous existence in the Executive Office of the President of the National Security Resources Board (charged with planning for the future) and the present Office of Defense Mobilization (charged with programs of the present). The progress of the current mobilization effort has made plain how artificial is the present separation of these functions.

Both functions should now be combined into one defense mobilization agency. Accordingly, the reorganization plan would create in the Executive Office of the President a new agency, to be known as the Office of Defense Mobilization. It would transfer to the new Office the functions of the Chairman of the National Security Resources Board and abolish that Board, including the offices of Chairman and Vice Chairman.

The reorganization plan also transfers to the new agency the statutory functions of the present Office of Defense Mobilization. These are of a minor nature, the major functions of the present Office of Defense Mobilization having been delegated to it by the President, principally under the Defense Production Act of 1950, as amended. It is my intention to transfer the latter functions to the new agency by Executive order, and to abolish the Office of Defense Mobilization established by Executive Order No. 10193. There will thus result a new agency which combines the activities of the National Security Resources Board and both the statutory and delegated functions of the heretofore existing Office of Defense Mobilization.

The proposed plan would also reorganize various activities relating to the stockpiling of strategic and critical materials. Those activities are principally provided for in the Strategic and Critical Materials Stock Piling Act, as amended. It has become increasingly apparent that the policy and program aspects of stockpiling are an integral part of mobilization planning. They should not be administered separately from plant expansion, conservation of materials, and materials procurement under the Defense Production Act of 1950, or from the duties placed in the National Security Resources Board by the National Security Act of 1947. Therefore, the reorganization plan would transfer to the Director of the new Office of Defense Mobilization responsibility for major stockpiling actions, including the determination of the nature and quantities of materials to be stockpiled. In the main, these functions

are transferred from the Secretaries of the Army, Navy, and Air Force (acting jointly through the agency of the Munitions Board) and the Secretary of the Interior. The duties of the Administrator of General Services regarding the purchase of strategic and critical materials and the management of stockpiles are not affected by the reorganization plan, except that he will receive his directions, under the plan, from the Director of the Office of Defense Mobilization instead of from the Department of Defense.

This transfer of stockpiling functions will correct the present undesirable confusion of responsibilities. The functions of the heads of the military departments of the Department of Defense and the Secretary of the Interior under the Strategic and Critical Materials Stock Piling Act, as amended, are at present in considerable measure subject to other authority of delegates of the President springing from the Defense Production Act of 1950, as amended. The allocation and distribution of scarce materials among essential civilian and military activities and the continued maintenance of adequate stockpiles of strategic and critical materials are of major current importance. The reorganization plan will make possible more effective coordination and close control over the Government's whole stockpile program. It will speed decisions. It can result in significant economies.

The Department of Defense will, of course, continue to be responsible for presenting the needs of the military services. That Department and the Department of the Interior are specifically designated in the plan as additional agencies which shall appoint representatives to cooperate with the Director of the Office of Defense Mobilization in determining which materials are strategic and critical and how much of them is to be purchased. Final authority with regard to such determination will, however, be in the Director of the Office of Defense Mobilization.

Section 5(a) of the reorganization plan withholds from transfer to the Director and abolishes the functions of the Chairman of the National Security Resources Board with regard to being consulted by and furnishing advice to the President concerning the placing of orders of mandatory precedence for articles or materials for the use of the armed forces of the United States or for the use of the Atomic Energy Commission, and with regard to determining that a plant, mine, or other facility can be readily converted to the production or furnishing of such articles or materials. These abolished functions were vested in the National Security Resources Board by section 18 of the Selective Service Act of 1948 (later renamed as the Universal Military Training and Service Act) and were transferred to the Chairman of that Board by Reorganization Plan No. 25 of 1950. The practical effect of this abolition is to obviate a statutory mandate that the President consult and advise with another officer of the executive branch of the Government.

Section 5(b) of the reorganization plan abolishes the direction, authority, and control of the Secretary of Defense over functions transferred from the Department of Defense by the reorganization plan. The Secretary's functions in this regard are provided for in section 202(b) of the National Security Act of 1947, as amended (5 U.S.C. 171a(b)) [see 10 U.S.C. 113(b)].

Section 5(c) of the reorganization plan abolishes any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as the agent through which the Secretaries of the Army, Navy, Air Force, and the Interior jointly act in determining which materials are strategic and critical under the provisions of the Strategic and Critical Materials Stock Piling Act, as amended, and the quality and quantities of such materials to be stockpiled. These abolished functions are provided for in section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of a Director and a Deputy Director of the Office of Defense Mobilization. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The reorganization plan will permit better organization and management of the Federal programs relating to materials and requirements and will thus help to achieve the maximum degree of mobilization readiness at the least possible cost. It is not practicable, however, to itemize, in advance of actual experience, the reductions of expenditures to be brought about by the taking effect of the reorganizations included in Reorganization Plan No. 3 of 1953.

I urge that the Congress allow the proposed reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 2, 1953.

EXECUTIVE ORDER NO. 9905

Ex. Ord. No. 9905, Nov. 13, 1947, 12 F.R. 7613, as amended by Ex. Ord. No. 9931, Feb. 19, 1948, 13 F.R. 763, provided for membership of National Security Resources Board and defined functions, duties and authority of Chairman of Board.

EXECUTIVE ORDER NO. 10169

Ex. Ord. No. 10169, Oct. 11, 1950, 15 F.R. 6901, which provided for a National Advisory Committee on Mobilization Policy, was revoked by Ex. Ord. No. 10480, Aug. 14, 1953, 18 F.R. 4939, formerly set out under section 2153 of the Appendix to this title.

EXECUTIVE ORDER NO. 10421

Ex. Ord. No. 10421, Dec. 31, 1952, 18 F.R. 57, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which related to physical security of defense facilities, was revoked by Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10438

Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491, which related to transfer of functions to Director of Defense Mobilization, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out under section 5195 of Title 42, The Public Health and Welfare.

§ 404a. Annual national security strategy report

(a) Transmittal to Congress

(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a ''national security strategy report'').

(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31.

(3) Not later than 150 days after the date on which a new President takes office, the President shall transmit to Congress a national security strategy report under this section. That report shall be in addition to the report for that year transmitted at the time specified in paragraph (2).

(b) Contents

Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

(c) Classified and unclassified form

Each national security strategy report shall be transmitted in both a classified and an unclassified form.

(July 26, 1947, ch. 343, title I, § 108, formerly § 104, as added Pub. L. 99–433, title VI, § 603(a)(1), Oct. 1, 1986, 100 Stat. 1074; renumbered § 108, Pub. L. 102–496, title VII, § 705(a)(2), Oct. 24, 1992, 106 Stat. 3190; amended Pub. L. 106–65, div. A, title IX, § 901(b), Oct. 5, 1999, 113 Stat. 717.)

AMENDMENTS

1999—Subsec. (a)(3). Pub. L. 106–65 added par. (3).

NATIONAL COMMISSION ON THE FUTURE ROLE OF UNITED STATES NUCLEAR WEAPONS, PROBLEMS OF COMMAND, CONTROL, AND SAFETY OF SOVIET NUCLEAR WEAPONS, AND REDUCTION OF NUCLEAR WEAPONS

Pub. L. 102–172, title VIII, § 8132, Nov. 26, 1991, 105 Stat. 1208, provided for establishment of a National Commission which was to submit to Congress, not later than May 1, 1993, a final report containing an assessment and recommendations regarding role of, and requirements for, nuclear weapons in security strategy of United States as result of significant changes in former Warsaw Pact, former Soviet Union, and Third World, including possibilities for international cooperation with former Soviet Union regarding such problems, and safeguards to protect against accidental or unauthorized use of nuclear weapons, further directed Commission to obtain study from National Academy of Sciences on these matters, further authorized establishment of joint working group comprised of experts from governments of United States and former Soviet Union which was to meet on regular basis and provide recommendations regarding these matters, and further provided for composition of Commission as well as powers, procedures, personnel matters, appropriations, and termination of Commission upon submission of its final report.

§ 404b. Multiyear national foreign intelligence program

(a) Annual submission of multiyear national foreign intelligence program

The Director of Central Intelligence shall submit to the congressional committees specified in subsection (d) of this section each year a multiyear national foreign intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national foreign intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

(b) Time of submission

The Director shall submit the report required by subsection (a) of this section each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31.

(c) Consistency with budget estimates

The Director of Central Intelligence and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) of this section are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section 114a[1] of title 10.

(d) Specified congressional committees

The congressional committees referred to in subsection (a) of this section are the following:

(1) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 101–510, div. A, title XIV, § 1403, Nov. 5, 1990, 104 Stat. 1675; Pub. L. 104–106, div. A, title XV, § 1502(c)(4)(B), Feb. 10, 1996, 110 Stat. 507; Pub. L. 106–65, div. A, title X, § 1067(10), Oct. 5, 1999, 113 Stat. 774.)

REFERENCES IN TEXT

Section 114a of title 10, referred to in subsec. (c), was renumbered section 221 of title 10 by Pub. L. 102–484, div. A, title X, § 1002(c)(1), Oct. 23, 1992, 106 Stat. 2480.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1999—Subsec. (d)(2). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (a). Pub. L. 104–106, § 1502(c)(4)(B)(i), substituted ''the congressional committees specified in subsection (d) of this section each year'' for ''the Committees on Armed Services and Appropriations of the Senate and the House of Representatives and the Select

[1] See References in Text note below.

Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives each year''.

Subsec. (d). Pub. L. 104–106, § 1502(c)(4)(B)(ii), added subsec. (d).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

§ 404c. Annual report on United States security arrangements and commitments with other nations

(a) Report requirements

The President shall submit to the congressional committees specified in subsection (d) of this section each year a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

(b) Matters to be included

The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

(c) Deadline for report

The President shall submit the report required by subsection (a) of this section not later than February 1 of each year.

(d) Specified congressional committees

The congressional committees referred to in subsection (a) of this section are the following:

(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(2) The Committee on Armed Services and the Committee on International Relations of the House of Representatives.

(Pub. L. 101–510, div. A, title XIV, § 1457, Nov. 5, 1990, 104 Stat. 1696; Pub. L. 104–106, div. A, title XV, § 1502(c)(4)(C), Feb. 10, 1996, 110 Stat. 507; Pub. L. 106–65, div. A, title X, § 1067(10), Oct. 5, 1999, 113 Stat. 774.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1999—Subsec. (d)(2). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (a). Pub. L. 104–106, § 1502(c)(4)(C)(i), substituted ''shall submit to the congressional committees specified in subsection (d) of this section each year'' for ''shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year''.

Subsec. (c). Pub. L. 104–106, § 1502(c)(4)(C)(ii), substituted ''The President'' for ''(1) Except as provided in paragraph (2), the President'' and struck out par. (2) which read as follows: ''In the case of the report required to be submitted in 1991, the evaluation, plan, and assessment referred to in paragraphs (2), (3), and (4) of subsection (b) of this section may be submitted not later than May 1, 1991.''

Subsec. (d). Pub. L. 104–106, § 1502(c)(4)(C)(iii), added subsec. (d).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 404d. Annual report on intelligence

(a) In general

(1)(A) Not later each year than the date provided in section 415b of this title, the President shall submit to the congressional intelligence committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

(B) Not later than January 31 each year, and included with the budget of the President for the next fiscal year under section 1105(a) of title 31, the President shall submit to the appropriate congressional committees the report described in subparagraph (A).

(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

(3) The report shall be submitted in unclassified form, but may include a classified annex.

(b) Matters covered

(1) Each report under subsection (a) of this section shall—

(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

(B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submit-

ted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

(c) "Appropriate congressional committees" defined

In this section, the term ''appropriate congressional committees'' means the following:

(1) The Committee on Appropriations and the Committee on Armed Services of the Senate.

(2) The Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

(July 26, 1947, ch. 343, title I, § 109, as added Pub. L. 103–178, title III, § 304(a), Dec. 3, 1993, 107 Stat. 2034; amended Pub. L. 104–293, title VIII, § 803(a), (b)(1), Oct. 11, 1996, 110 Stat. 3475, 3476; Pub. L. 106–65, div. A, title X, § 1067(16), Oct. 5, 1999, 113 Stat. 775; Pub. L. 107–306, title VIII, § 811(b)(1)(B), Nov. 27, 2002, 116 Stat. 2422.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–306, § 811(b)(1)(B)(i), added par. (1) and struck out former par. (1), which directed the President to submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community not later than Jan. 31 each year.

Subsec. (c). Pub. L. 107–306, § 811(b)(1)(B)(iii), struck out the subsec. (c) enacted by Pub. L. 103–178, which provided that the report under this section for any year should be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31.

Subsec. (c)(1). Pub. L. 107–306, § 811(b)(1)(B)(ii)(I), substituted ''The Committee on Appropriations'' for ''The Select Committee on Intelligence, the Committee on Appropriations,''.

Subsec. (c)(2). Pub. L. 107–306, § 811(b)(1)(B)(ii)(II), substituted ''The Committee on Appropriations'' for ''The Permanent Select Committee on Intelligence, the Committee on Appropriations,''.

1999—Subsec. (c)(2). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Pub. L. 104–293, § 803(b)(1), substituted ''intelligence'' for ''intelligence community activities'' in section catchline.

Subsecs. (a), (b). Pub. L. 104–293, § 803(a), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which read as follows:

''(a) IN GENERAL.—The Director of Central Intelligence shall submit to Congress an annual report on the activities of the intelligence community. The annual report under this section shall be unclassified.

''(b) MATTERS TO BE COVERED IN ANNUAL REPORT.—Each report under this section shall describe—

''(1) the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

''(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the intelligence community during the next fiscal year.''

Subsec. (c). Pub. L. 104–293, § 803(a), added subsec. (c) providing definition.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Aug. 5, 1997, 62 F.R. 51367, provided:

Memorandum for Director of Central Intelligence

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate the functions conferred upon the President by section 803(a) of the Intelligence Authorization Act for Fiscal Year 1997, 50 U.S.C. section 404d, to the Director of Central Intelligence.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 404d–1. Transferred

CODIFICATION

Section 404d–1 of this title, act July 26, 1947, ch. 343, title I, § 110, as added Oct. 11, 1996, Pub. L. 104–293, title III, § 308(a), 110 Stat. 3466, which related to restrictions on intelligence sharing with United Nations, was renumbered section 112 of act July 26, 1947, by Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252, and was transferred to section 404g of this title.

§ 404e. National mission of National Geospatial-Intelligence Agency

(a) In general

In addition to the Department of Defense missions set forth in section 442 of title 10, the National Geospatial-Intelligence Agency shall support the geospatial intelligence requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense.

(b) Requirements and priorities

The Director of National Intelligence shall establish requirements and priorities governing the collection of national intelligence by the National Geospatial-Intelligence Agency under subsection (a) of this section.

(c) Correction of deficiencies

The Director of National Intelligence shall develop and implement such programs and policies as the Director and the Secretary of Defense jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Geospatial-Intelligence Agency to accomplish assigned national missions, including support to the all-source analysis and production process. The Director shall consult with the Secretary of Defense on the development and implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.

(July 26, 1947, ch. 343, title I, § 110, formerly § 120, as added Pub. L. 104–201, div. A, title XI, § 1114(b), Sept. 23, 1996, 110 Stat. 2685; renumbered § 110, Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252; amended Pub. L. 108–136, div. A, title IX, § 921(c)(2), (e)(6), Nov. 24, 2003, 117 Stat. 1568, 1569; Pub. L. 108–458, title I, § 1071(a)(1)(I), (J), Dec. 17, 2004, 118 Stat. 3689.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458, § 1071(a)(1)(I), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c). Pub. L. 108–458, § 1071(a)(1)(J), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Pub. L. 108–136, § 921(e)(6)(B), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in section catchline.

Subsec. (a). Pub. L. 108–136, § 921(c)(2), (e)(6)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' and ''geospatial intelligence'' for ''imagery''.

Subsecs. (b), (c). Pub. L. 108–136, § 921(e)(6)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

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 401 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 401 of this title.

§ 404f. Repealed. Pub. L. 108–458, title I, § 1075, Dec. 17, 2004, 118 Stat. 3694

Section, act July 26, 1947, ch. 343, title I, § 111, formerly § 121, as added Pub. L. 104–201, div. A, title XI, § 1114(c), Sept. 23, 1996, 110 Stat. 2685; renumbered § 111, Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252, related to collection tasking authority of Director of Central Intelligence.

EFFECTIVE DATE OF REPEAL

For Determination by President that repeal 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 401 of this title.

Repeal 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 401 of this title.

§ 404g. Restrictions on intelligence sharing with United Nations

(a) Provision of intelligence information to United Nations

(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of National Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

(b) Annual and special reports

(1) The President shall report annually to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

(3) In the case of the annual reports required to be submitted under the first sentence of paragraph (1) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 415b of this title.

(c) Delegation of duties

The President may not delegate or assign the duties of the President under this section.

(d) Relationship to existing law

Nothing in this section shall be construed to—

(1) impair or otherwise affect the authority of the Director of National Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 403–1(i) of this title; or

(2) supersede or otherwise affect the provisions of subchapter III of this chapter.

(e) "Appropriate committees of Congress" defined

As used in this section, the term ''appropriate committees of Congress'' means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

(July 26, 1947, ch. 343, title I, § 112, formerly § 110, as added Pub. L. 104–293, title III, § 308(a), Oct. 11, 1996, 110 Stat. 3466; renumbered § 112, Pub. L. 105–107, title III, § 303(b), Nov. 20, 1997, 111 Stat. 2252; amended Pub. L. 107–306, title VIII, § 811(b)(1)(C), Nov. 27, 2002, 116 Stat. 2422; Pub. L. 108–177, title III, §§ 361(b), 377(a), Dec. 13, 2003, 117 Stat. 2625, 2630; Pub. L. 108–458, title I, §§ 1071(a)(1)(K), (L), 1072(a)(4), Dec. 17, 2004, 118 Stat. 3689, 3692.)

CODIFICATION

Section was formerly classified to section 404d–1 of this title prior to renumbering by Pub. L. 105–107.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(K), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (d)(1). Pub. L. 108–458, § 1072(a)(4), which directed amendment of par. (1) by substituting ''section 403–1(i)'' for ''section 403–3(c)(6)'', was executed by making the substitution for ''section 403–3(c)(7)'' to reflect the probable intent of Congress and the amendment by Pub. L. 108–177, § 377(a). See 2003 Amendment note below.

Pub. L. 108–458, § 1071(a)(1)(L), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Subsec. (b). Pub. L. 108–177, § 361(b)(1), substituted ''Annual'' for ''Periodic'' in heading.

Subsec. (b)(1). Pub. L. 108–177, § 361(b)(2), substituted ''annually'' for ''semiannually''.

Subsec. (b)(3). Pub. L. 108–177, § 361(b)(3), substituted ''the annual'' for ''periodic''.

Subsec. (d)(1). Pub. L. 108–177, § 377(a), substituted ''section 403–3(c)(7)'' for ''section 403–3(c)(6)''.

2002—Subsec. (b)(3). Pub. L. 107–306 added par. (3).

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 401 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 401 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 361(b) of Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

§ 404h. Detail of intelligence community personnel—Intelligence Community Assignment Program

(a) Detail

(1) Notwithstanding any other provision of law, the head of a department with an element in the intelligence community or the head of an intelligence community agency or element may detail any employee within that department, agency, or element to serve in any position in the Intelligence Community Assignment Program on a reimbursable or a nonreimbursable basis.

(2) Nonreimbursable details may be for such periods as are agreed to between the heads of the parent and host agencies, up to a maximum of three years, except that such details may be extended for a period not to exceed one year when the heads of the parent and host agencies determine that such extension is in the public interest.

(b) Benefits, allowances, travel, incentives

(1) An employee detailed under subsection (a) of this section may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which the employee is detailed.

(2) The head of an agency of an employee detailed under subsection (a) of this section may pay a lodging allowance for the employee subject to the following conditions:

(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of National Intelligence and—

(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

(C) The lodging is within a reasonable proximity of the host agency duty station.

(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employees parent duty station.

(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS–15 of the General Schedule.

(July 26, 1947, ch. 343, title I, § 113, as added Pub. L. 105–107, title III, § 303(a), Nov. 20, 1997, 111 Stat. 2251; amended Pub. L. 107–108, title III, § 304, Dec. 28, 2001, 115 Stat. 1398; Pub. L. 107–306, title VIII, § 841(a), Nov. 27, 2002, 116 Stat. 2431; Pub. L. 108–458, title I, § 1071(a)(1)(M), Dec. 17, 2004, 118 Stat. 3689.)

REFERENCES IN TEXT

GS–15 of the General Schedule, referred to in subsec. (b)(2)(F), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

2004—Subsec. (b)(2)(A). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

2002—Subsec. (c). Pub. L. 107–306 struck out heading and text of subsec. (c). Text read as follows: ''Not later than March 1, 1999, and annually thereafter, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the detail of intelligence community personnel pursuant to subsection (a) of this section during the 12-month period ending on the date of the report. The report shall set forth the number of personnel detailed, the identity of parent and host agencies or elements, and an analysis of the benefits of the details.''

2001—Subsec. (b). Pub. L. 107–108 designated existing provisions as par. (1) and added par. (2).

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 401 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 401 of this title.

EFFECTIVE DATE

Pub. L. 105–107, title III, § 303(d), Nov. 20, 1997, 111 Stat. 2252, provided that: ''The amendment made by subsection (a) [enacting this section] shall apply to an employee on detail on or after January 1, 1997.''

§ 404i. Additional annual reports from the Director of National Intelligence

(a) Annual report on the safety and security of Russian nuclear facilities and nuclear military forces

(1) The Director of National Intelligence shall submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 415b of this title, an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each such report shall include a discussion of the following:

(A) The ability of the Government of Russia to maintain its nuclear military forces.

(B) The security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

(b) Annual report on hiring and retention of minority employees

(1) The Director of National Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

(i) Positions at levels 1 through 15 of the General Schedule.

(ii) Positions at levels above GS–15.

(C) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

(5) In this subsection, the term ''covered persons'' means—

(A) racial and ethnic minorities;

(B) women; and

(C) individuals with disabilities.

(c) Annual report on threat of attack on the United States using weapons of mass destruction

(1) Not later each year than the date provided in section 415b of this title, the Director of National Intelligence shall submit to the congressional committees specified in paragraph (3) a report assessing the following:

(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.

(3) The congressional committees referred to in paragraph (1) are the following:

(A) The congressional intelligence committees.

(B) The Committees on Foreign Relations and Armed Services of the Senate.

(C) The Committees on International Relations and Armed Services of the House of Representatives.

(d) Congressional leadership defined

In this section, the term ''congressional leadership'' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

(July 26, 1947, ch. 343, title I, § 114, as added Pub. L. 105–272, title III, § 307(a), Oct. 20, 1998, 112 Stat. 2401; amended Pub. L. 107–306, title III, §§ 324, 353(b)(6), title VIII, §§ 811(b)(1)(D), 821, 822, Nov. 27, 2002, 116 Stat. 2393, 2402, 2422, 2426, 2427; Pub. L. 108–177, title III, § 361(c), (d), Dec. 13, 2003, 117 Stat. 2625; Pub. L. 108–458, title I, § 1071(a)(1)(N), (O), (3)(A), (7), Dec. 17, 2004, 118 Stat. 3689, 3690.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2)(B), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

2004—Pub. L. 108–458, § 1071(a)(7), substituted ''Additional annual reports from the Director of National Intelligence'' for ''Additional annual reports from the Director of Central Intelligence'' in section catchline.

Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(N), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(O), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c)(1). Pub. L. 108–458, § 1071(a)(3)(A), substituted ''Director of National Intelligence'' for ''Director''.

2003—Subsec. (a). Pub. L. 108–177, § 361(c), redesignated subsec. (b) as (a) and struck out former subsec. (a), which related to annual reports on intelligence community cooperation with Federal law enforcement agencies.

Subsecs. (b), (c). Pub. L. 108–177, § 361(c)(2), redesignated subsecs. (c) and (d) as (b) and (c), respectively. Former subsec. (b) redesignated (a).

Subsec. (d). Pub. L. 108–177, § 361(d), redesignated subsec. (e) as (d) and struck out former subsec. (d), which related to annual reports on covert leases of the intelligence community.

Pub. L. 108–177, § 361(c)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 108–177, § 361(d)(2), redesignated subsec. (e) as (d).

Pub. L. 108–177, § 361(c)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 108–177, § 361(c)(2), redesignated subsec. (f) as (e).

2002—Subsec. (a)(1). Pub. L. 107–306, § 811(b)(1)(D)(i)(I), struck out ''the congressional intelligence committees and'' before ''the congressional leadership''.

Subsec. (a)(2) to (4). Pub. L. 107–306, § 811(b)(1)(D)(i)(II), (III), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b)(1). Pub. L. 107–306, § 811(b)(1)(D)(ii), substituted ''submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 415b of this title,'' for '', on an annual basis, submit to the congressional intelligence committees and the congressional leadership''.

Subsec. (c). Pub. L. 107–306, § 324(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107–306, § 821(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 107–306, § 353(b)(6), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''In this section:

''(1) The term 'congressional intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

''(2) The term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.''

Pub. L. 107–306, § 324(1), redesignated subsec. (c) as (d).

Subsec (e). Pub. L. 107–306, § 822(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 107–306, § 821(1), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 107–306, § 822(1), redesignated subsec. (e) as (f).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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 401 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 401 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

DATE FOR FIRST REPORT ON COOPERATION WITH CIVILIAN LAW ENFORCEMENT AGENCIES

Pub. L. 105–272, title III, § 307(c), Oct. 20, 1998, 112 Stat. 2402, provided that the first report under former subsec. (a) of this section was to be submitted not later than Dec. 31, 1999.

§ 404i–1. Annual report on improvement of financial statements for auditing purposes

Not later each year than the date provided in section 415b of this title, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Geospatial-Intelligence Agency shall each submit to the congressional intelligence committees a report describing the activities being undertaken by such official to ensure that the financial statements of such agency can be audited in accordance with applicable law and requirements of the Office of Management and Budget.

(July 26, 1947, ch. 343, title I, § 114A, as added Pub. L. 107–306, title VIII, § 823(a), Nov. 27, 2002, 116 Stat. 2427; amended Pub. L. 108–136, div. A, title IX, § 921(g), Nov. 24, 2003, 117 Stat. 1570; Pub. L. 108–458, title I, § 1071(a)(4), Dec. 17, 2004, 118 Stat. 3690.)

AMENDMENTS

2004—Pub. L. 108–458 substituted ''Director of National Intelligence, the Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

2003—Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

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 401 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 401 of this title.

§ 404j. Limitation on establishment or operation of diplomatic intelligence support centers

(a) In general

(1) A diplomatic intelligence support center may not be established, operated, or maintained without the prior approval of the Director of National Intelligence.

(2) The Director may only approve the establishment, operation, or maintenance of a diplomatic intelligence support center if the Director determines that the establishment, operation, or maintenance of such center is required to provide necessary intelligence support in furtherance of the national security interests of the United States.

(b) Prohibition of use of appropriations

Amounts appropriated pursuant to authorizations by law for intelligence and intelligence-related activities may not be obligated or expended for the establishment, operation, or maintenance of a diplomatic intelligence support center that is not approved by the Director of National Intelligence.

(c) Definitions

In this section:

(1) The term ''diplomatic intelligence support center'' means an entity to which employees of the various elements of the intelligence community (as defined in section 401a(4) of this title) are detailed for the purpose of providing analytical intelligence support that—

(A) consists of intelligence analyses on military or political matters and expertise to conduct limited assessments and dynamic taskings for a chief of mission; and

(B) is not intelligence support traditionally provided to a chief of mission by the Director of National Intelligence.

(2) The term ''chief of mission'' has the meaning given that term by section 3902(3) of title 22, and includes ambassadors at large and ministers of diplomatic missions of the United States, or persons appointed to lead United States offices abroad designated by the Secretary of State as diplomatic in nature.

(d) Termination

This section shall cease to be effective on October 1, 2000.

(July 26, 1947, ch. 343, title I, § 115, as added Pub. L. 106–120, title III, § 303(a), Dec. 3, 1999, 113 Stat. 1610; amended Pub. L. 108–458, title I, § 1071(a)(1)(P)–(R), Dec. 17, 2004, 118 Stat. 3689.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(P), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b). Pub. L. 108–458, § 1071(a)(1)(Q), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c)(1)(B). Pub. L. 108–458, § 1071(a)(1)(R), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

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 401 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 401 of this title.

§ 404k. Travel on any common carrier for certain intelligence collection personnel

(a) In general

Notwithstanding any other provision of law, the Director of National Intelligence may authorize travel on any common carrier when such travel, in the discretion of the Director—

(1) is consistent with intelligence community mission requirements, or

(2) is required for cover purposes, operational needs, or other exceptional circumstances necessary for the successful performance of an intelligence community mission.

(b) Authorized delegation of duty

The Director of National Intelligence may only delegate the authority granted by this section to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency.

(July 26, 1947, ch. 343, title I, § 116, as added Pub. L. 106–567, title III, § 305(a), Dec. 27, 2000, 114 Stat. 2838; amended Pub. L. 108–458, title I, §§ 1071(a)(1)(S), (3)(B), 1072(a)(5), Dec. 17, 2004, 118 Stat. 3689, 3690, 3692.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(S), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (b). Pub. L. 108–458, § 1072(a)(5), which directed amendment of subsec. (b) by substituting ''to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency'' for ''to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency, the Director may delegate such authority to the Deputy Director for Operations'', was executed by making the substitution for ''to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency the Director may delegate such authority to the Deputy Director for Operations'', to reflect the probable intent of Congress.

Pub. L. 108–458, § 1071(a)(3)(B), which directed amendment of subsec. (b) by substituting ''Director of National Intelligence'' for ''Director'' each place it appeared, was executed by making the substitution the first place it appeared to reflect the probable intent of Congress.

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 401 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 401 of this title.

§ 404*l*. POW/MIA analytic capability

(a) Requirement

(1) The Director of National Intelligence shall, in consultation with the Secretary of Defense, establish and maintain in the intelligence community an analytic capability with responsibility for intelligence in support of the activities of the United States relating to individuals who, after December 31, 1990, are unaccounted for United States personnel.

(2) The analytic capability maintained under paragraph (1) shall be known as the ''POW/MIA analytic capability of the intelligence community''.

(b) Unaccounted for United States personnel

In this section, the term ''unaccounted for United States personnel'' means the following:

(1) Any missing person (as that term is defined in section 1513(1) of title 10).

(2) Any United States national who was killed while engaged in activities on behalf of the United States and whose remains have not been repatriated to the United States.

(July 26, 1947, ch. 343, title I, § 117, as added Pub. L. 106–567, title III, § 307(a), Dec. 27, 2000, 114 Stat. 2839; amended Pub. L. 108–458, title I, § 1071(a)(1)(T), Dec. 17, 2004, 118 Stat. 3689.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

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 401 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 401 of this title.

§ 404m. Semiannual report on financial intelligence on terrorist assets

(a) Semiannual report

On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period—

(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;

(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

(b) Immediate notification for emergency designation

In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

(c) Submittal date of reports to congressional intelligence committees

In the case of the reports required to be submitted under subsection (a) of this section to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 415b of this title.

(d) Appropriate congressional committees defined

In this section, the term ''appropriate congressional committees'' means the following:

(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

(2) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(July 26, 1947, ch. 343, title I, § 118, as added Pub. L. 107–306, title III, § 342(a)(1), Nov. 27, 2002, 116 Stat. 2398.)

§ 404n. National Virtual Translation Center

(a) Establishment

The Director of National Intelligence shall establish in the intelligence community an element with the function of connecting the elements of the intelligence community engaged in the acquisition, storage, translation, or analysis of voice or data in digital form.

(b) Designation

The element established under subsection (a) of this section shall be known as the National Virtual Translation Center.

(c) Function

The element established under subsection (a) of this section shall provide for timely and accurate translations of foreign intelligence for all elements of the intelligence community through—

(1) the integration of the translation capabilities of the intelligence community;

(2) the use of remote-connection capabilities; and

(3) the use of such other capabilities as the Director considers appropriate.

(d) Administrative matters

(1) The Director shall retain direct supervision and control over the element established under subsection (a) of this section.

(2) The element established under subsection (a) of this section shall connect elements of the intelligence community utilizing the most current available information technology that is applicable to the function of the element.

(3) Personnel of the element established under subsection (a) of this section may carry out the duties and functions of the element at any location that—

(A) has been certified as a secure facility by a department or agency of the United States Government; or

(B) the Director has otherwise determined to be appropriate for such duties and functions[1]

(e) Deadline for establishment

The element required by subsection (a) of this section shall be established as soon as practicable after November 27, 2002, but not later than 90 days after November 27, 2002.

(Pub. L. 107–306, title III, § 313, Nov. 27, 2002, 116 Stat. 2391; Pub. L. 108–458, title I, § 1071(g)(2)(A)(i), Dec. 17, 2004, 118 Stat. 3691; Pub. L. 108–487, title III, § 304, Dec. 23, 2004, 118 Stat. 3944.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2003, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence, acting as the head of the intelligence community,''.

Subsec. (c). Pub. L. 108–487, § 304(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

[1] So in original. Probably should be followed by a period.

Subsec. (d). Pub. L. 108–487, § 304(a)(1), (b), redesignated subsec. (c) as (d) and added par. (3). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108–487, § 304(a)(1), redesignated subsec. (d) as (e).

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 401 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 401 of this title.

§ 404n–1. Foreign Terrorist Asset Tracking Center

(a) Establishment

The Director of National Intelligence shall establish within the Central Intelligence Agency an element responsible for conducting all-source intelligence analysis of information relating to the financial capabilities, practices, and activities of individuals, groups, and nations associated with international terrorism in their activities relating to international terrorism.

(b) Designation

The element established under subsection (a) of this section shall be known as the Foreign Terrorist Asset Tracking Center.

(c) Deadline for establishment

The element required by subsection (a) of this section shall be established as soon as practicable after November 27, 2002, but not later than 90 days after November 27, 2002.

(Pub. L. 107–306, title III, § 341, Nov. 27, 2002, 116 Stat. 2398; Pub. L. 108–458, title I, § 1071(g)(2)(C), Dec. 17, 2004, 118 Stat. 3691.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2003, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458 substituted ''Director of National Intelligence shall establish within the Central Intelligence Agency'' for ''Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency''.

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 401 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 401 of this title.

§ 404n–2. Terrorist Identification Classification System

(a) Requirement

(1) The Director of National Intelligence shall—

(A) establish and maintain a list of individuals who are known or suspected international terrorists, and of organizations that are known or suspected international terrorist organizations; and

(B) ensure that pertinent information on the list is shared with the departments, agencies, and organizations described by subsection (c) of this section.

(2) The list under paragraph (1), and the mechanisms for sharing information on the list, shall be known as the ''Terrorist Identification Classification System''.

(b) Administration

(1) The Director shall prescribe requirements for the inclusion of an individual or organization on the list required by subsection (a) of this section, and for the deletion or omission from the list of an individual or organization currently on the list.

(2) The Director shall ensure that the information utilized to determine the inclusion, or deletion or omission, of an individual or organization on or from the list is derived from all-source intelligence.

(3) The Director shall ensure that the list is maintained in accordance with existing law and regulations governing the collection, storage, and dissemination of intelligence concerning United States persons.

(c) Information sharing

Subject to section 403–1(i) of this title, relating to the protection of intelligence sources and methods, the Director shall provide for the sharing of the list, and information on the list, with such departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations as the Director considers appropriate.

(d) Reporting and certification

(1) The Director shall review on an annual basis the information provided by various departments and agencies for purposes of the list under subsection (a) of this section in order to determine whether or not the information so provided is derived from the widest possible range of intelligence available to such departments and agencies.

(2) The Director shall, as a result of each review under paragraph (1), certify whether or not the elements of the intelligence community responsible for the collection of intelligence related to the list have provided information for purposes of the list that is derived from the widest possible range of intelligence available to such department and agencies.

(e) Report on criteria for information sharing

(1) Not later then March 1, 2003, the Director shall submit to the congressional intelligence committees a report describing the criteria used to determine which types of information on the list required by subsection (a) of this section are to be shared, and which types of information are not to be shared, with various departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations.

(2) The report shall include a description of the circumstances in which the Director has determined that sharing information on the list with the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c) of this section would be inappropriate due to the concerns addressed by section 403–3(c)(7)[1] of this title, relating to the protection of sources and methods, and any instance in which the sharing of information on the list has been inappropriate in light of such concerns.

(f) System administration requirements

(1) The Director shall, to the maximum extent practicable, ensure the interoperability of the Terrorist Identification Classification System with relevant information systems of the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c) of this section.

(2) The Director shall ensure that the System utilizes technologies that are effective in aiding the identification of individuals in the field.

(g) Report on status of System

(1) Not later than one year after November 27, 2002, the Director shall, in consultation with the Director of Homeland Security, submit to the congressional intelligence committees a report on the status of the Terrorist Identification Classification System. The report shall contain a certification on the following:

(A) Whether the System contains the intelligence information necessary to facilitate the contribution of the System to the domestic security of the United States.

(B) Whether the departments and agencies having access to the System have access in a manner that permits such departments and agencies to carry out appropriately their domestic security responsibilities.

(C) Whether the System is operating in a manner that maximizes its contribution to the domestic security of the United States.

(D) If a certification under subparagraph (A), (B), or (C) is in the negative, the modifications or enhancements of the System necessary to ensure a future certification in the positive.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(h) Congressional intelligence committees defined

In this section, the term ''congressional intelligence committees'' means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 107–306, title III, § 343, Nov. 27, 2002, 116 Stat. 2399; Pub. L. 108–177, title III, § 377(d), Dec. 13, 2003, 117 Stat. 2631; Pub. L. 108–458, title I, §§ 1071(g)(2)(A)(ii), 1072(d)(1)(A), Dec. 17, 2004, 118 Stat. 3691, 3693.)

REFERENCES IN TEXT

Section 403–3 of this title, referred to in subsec. (e)(2), was repealed and a new section 403–3 enacted by Pub. L. 108–458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3643, without corresponding amendment to subsec. (e)(2) of this section. The new section 403–3 contains a subsec. (c) relating to the composition of the Office of the Director of National Intelligence.

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2003, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(g)(2)(A)(ii), which directed amendment of par. (1) by substituting ''Director of National Intelligence'' for ''Director of Central Intelligence, acting as the head of the intelligence community,'', was executed by making the substitution for ''Director of Central Intelligence, acting as head of the Intelligence Community,'' in introductory provisions to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 108–458, § 1072(d)(1)(A), which directed amendment of subsec. (c) by substituting ''section 403–1(i)'' for ''section 403–3(c)(6)'', was executed by making the substitution for ''section 403–3(c)(7)'' to reflect the probable intent of Congress and the amendment by Pub. L. 108–177. See 2003 Amendment note below.

2003—Subsecs. (c), (e)(2). Pub. L. 108–177, § 377(d), substituted ''section 403–3(c)(7) of this title'' for ''section 403–3(c)(6) of this title''.

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 401 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 401 of this title.

§ 404n–3. Repealed. Pub. L. 108–177, title III, § 361(e), Dec. 13, 2003, 117 Stat. 2625

Section, Pub. L. 107–306, title VIII, § 827, Nov. 27, 2002, 116 Stat. 2430, related to annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as an Effective Date of 2003 Amendment note under section 1611 of Title 10, Armed Forces.

§ 404*o*. National Counterterrorism Center

(a) Establishment of Center

There is within the Office of the Director of National Intelligence a National Counterterrorism Center.

(b) Director of National Counterterrorism Center

(1) There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director of the National Counterterrorism Center may not simultaneously serve in any other capacity in the executive branch.

(c) Reporting

(1) The Director of the National Counterterrorism Center shall report to the Director of

[1] See References in Text note below.

National Intelligence with respect to matters described in paragraph (2) and the President with respect to matters described in paragraph (3).

(2) The matters described in this paragraph are as follows:

(A) The budget and programs of the National Counterterrorism Center.

(B) The activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (h) of this section.

(C) The conduct of intelligence operations implemented by other elements of the intelligence community; and

(3) The matters described in this paragraph are the planning and progress of joint counterterrorism operations (other than intelligence operations).

(d) Primary missions

The primary missions of the National Counterterrorism Center shall be as follows:

(1) To serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism.

(2) To conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies.

(3) To assign roles and responsibilities as part of its strategic operational planning duties to lead Departments or agencies, as appropriate, for counterterrorism activities that are consistent with applicable law and that support counterterrorism strategic operational plans, but shall not direct the execution of any resulting operations.

(4) To ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

(5) To ensure that such agencies have access to and receive intelligence needed to accomplish their assigned activities.

(6) To serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.

(e) Domestic counterterrorism intelligence

(1) The Center may, consistent with applicable law, the direction of the President, and the guidelines referred to in section 403–1(b) of this title, receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.

(2) Any agency authorized to conduct counterterrorism activities may request information from the Center to assist it in its responsibilities, consistent with applicable law and the guidelines referred to in section 403–1(b) of this title.

(f) Duties and responsibilities of Director

(1) The Director of the National Counterterrorism Center shall—

(A) serve as the principal adviser to the Director of National Intelligence on intelligence operations relating to counterterrorism;

(B) provide strategic operational plans for the civilian and military counterterrorism efforts of the United States Government and for the effective integration of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(C) advise the Director of National Intelligence on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President;

(D) disseminate terrorism information, including current terrorism threat analysis, to the President, the Vice President, the Secretaries of State, Defense, and Homeland Security, the Attorney General, the Director of the Central Intelligence Agency, and other officials of the executive branch as appropriate, and to the appropriate committees of Congress;

(E) support the Department of Justice and the Department of Homeland Security, and other appropriate agencies, in fulfillment of their responsibilities to disseminate terrorism information, consistent with applicable law, guidelines referred to in section 403–1(b) of this title, Executive orders and other Presidential guidance, to State and local government officials, and other entities, and coordinate dissemination of terrorism information to foreign governments as approved by the Director of National Intelligence;

(F) develop a strategy for combining terrorist travel intelligence operations and law enforcement planning and operations into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility;

(G) have primary responsibility within the United States Government for conducting net assessments of terrorist threats;

(H) consistent with priorities approved by the President, assist the Director of National Intelligence in establishing requirements for the intelligence community for the collection of terrorism information; and

(I) perform such other duties as the Director of National Intelligence may prescribe or are prescribed by law.

(2) Nothing in paragraph (1)(G) shall limit the authority of the departments and agencies of the United States to conduct net assessments.

(g) Limitation

The Director of the National Counterterrorism Center may not direct the execution of counterterrorism operations.

(h) Resolution of disputes

The Director of National Intelligence shall resolve disagreements between the National

Counterterrorism Center and the head of a department, agency, or element of the United States Government on designations, assignments, plans, or responsibilities under this section. The head of such a department, agency, or element may appeal the resolution of the disagreement by the Director of National Intelligence to the President.

(i) Directorate of Intelligence

The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence which shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States.

(j) Directorate of Strategic Operational Planning

(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Strategic Operational Planning which shall provide strategic operational plans for counterterrorism operations conducted by the United States Government.

(2) Strategic operational planning shall include the mission, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities.

(3) The Director of the National Counterterrorism Center shall monitor the implementation of strategic operational plans, and shall obtain information from each element of the intelligence community, and from each other department, agency, or element of the United States Government relevant for monitoring the progress of such entity in implementing such plans.

(July 26, 1947, ch. 343, title I, § 119, as added Pub. L. 108–458, title I, § 1021, Dec. 17, 2004, 118 Stat. 3672.)

EFFECTIVE DATE

Section 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 401 of this title.

STRATEGY FOR COUNTERTERRORIST TRAVEL INTELLIGENCE

Pub. L. 108–458, title VII, § 7201(b), Dec. 17, 2004, 118 Stat. 3809, directed the Director of the National Counterterrorism Center, not later than 1 year after Dec. 17, 2004, to submit to Congress unclassified and classified versions of a strategy, to be developed in coordination with all relevant Federal agencies, for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally.

EXECUTIVE ORDER NO. 13354

Ex. Ord. No. 13354, Aug. 27, 2004, 69 F.R. 53589, which established a National Counterterrorism Center, was revoked by Ex. Ord. No. 12333, § 3.6, Dec. 4, 1981, 46 F.R. 59954, as amended by Ex. Ord. No. 13470, § 4(j), July 30, 2008, 73 F.R. 45341, set out as a note under section 401 of this title.

§ 404*o*–1. National Counter Proliferation Center

(a) Establishment

Not later than 18 months after December 17, 2004, the President shall establish a National Counter Proliferation Center, taking into account all appropriate government tools to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(b) Missions and objectives

In establishing the National Counter Proliferation Center, the President shall address the following missions and objectives to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies:

(1) Establishing a primary organization within the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States pertaining to proliferation.

(2) Ensuring that appropriate agencies have full access to and receive all-source intelligence support needed to execute their counter proliferation plans or activities, and perform independent, alternative analyses.

(3) Establishing a central repository on known and suspected proliferation activities, including the goals, strategies, capabilities, networks, and any individuals, groups, or entities engaged in proliferation.

(4) Disseminating proliferation information, including proliferation threats and analyses, to the President, to the appropriate departments and agencies, and to the appropriate committees of Congress.

(5) Conducting net assessments and warnings about the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(6) Coordinating counter proliferation plans and activities of the various departments and agencies of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(7) Conducting strategic operational counter proliferation planning for the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(c) National security waiver

The President may waive the requirements of this section, and any parts thereof, if the President determines that such requirements do not materially improve the ability of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies. Such waiver shall be made in writing to Congress and shall include a description of how the missions and objectives in subsection (b) of this section are being met.

(d) Report to Congress

(1) Not later than nine months after the implementation of this Act, the President shall submit to Congress, in classified form if necessary,

the findings and recommendations of the President's Commission on Weapons of Mass Destruction established by Executive Order in February 2004, together with the views of the President regarding the establishment of a National Counter Proliferation Center.

(2) If the President decides not to exercise the waiver authority granted by subsection (c) of this section, the President shall submit to Congress from time to time updates and plans regarding the establishment of a National Counter Proliferation Center.

(e) Sense of Congress

It is the sense of Congress that a central feature of counter proliferation activities, consistent with the President's Proliferation Security Initiative, should include the physical interdiction, by air, sea, or land, of weapons of mass destruction, their delivery systems, and related materials and technologies, and enhanced law enforcement activities to identify and disrupt proliferation networks, activities, organizations, and persons.

(July 26, 1947, ch. 343, title I, § 119A, as added Pub. L. 108–458, title I, § 1022, Dec. 17, 2004, 118 Stat. 3675.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(1), probably means Pub. L. 108–458, known as the Intelligence Reform and Terrorism Prevention Act of 2004, which enacted this section. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 401 of this title and Tables.

The Executive Order in February 2004 establishing the President's Commission on Weapons of Mass Destruction, referred to in subsec. (d)(1), is Ex. Ord. No. 13328, Feb. 6, 2004, 69 F.R. 6901, which was revoked by Ex. Ord. No. 13385, § 3(a), Sept. 29, 2005, 70 F.R. 57990, and was formerly set out as a note under section 2301 of this title.

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

DELEGATION OF FUNCTIONS

Reporting functions of President under this section assigned to the Director of National Intelligence by section 3 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of Title 3, The President.

§ 404*o*–2. National Intelligence Centers

(a) Authority to establish

The Director of National Intelligence may establish one or more national intelligence centers to address intelligence priorities, including, but not limited to, regional issues.

(b) Resources of directors of centers

(1) The Director of National Intelligence shall ensure that the head of each national intelligence center under subsection (a) of this section has appropriate authority, direction, and control of such center, and of the personnel assigned to such center, to carry out the assigned mission of such center.

(2) The Director of National Intelligence shall ensure that each national intelligence center has appropriate personnel to accomplish effectively the mission of such center.

(c) Information sharing

The Director of National Intelligence shall, to the extent appropriate and practicable, ensure that each national intelligence center under subsection (a) of this section and the other elements of the intelligence community share information in order to facilitate the mission of such center.

(d) Mission of centers

Pursuant to the direction of the Director of National Intelligence, each national intelligence center under subsection (a) of this section may, in the area of intelligence responsibility assigned to such center—

(1) have primary responsibility for providing all-source analysis of intelligence based upon intelligence gathered both domestically and abroad;

(2) have primary responsibility for identifying and proposing to the Director of National Intelligence intelligence collection and analysis and production requirements; and

(3) perform such other duties as the Director of National Intelligence shall specify.

(e) Review and modification of centers

The Director of National Intelligence shall determine on a regular basis whether—

(1) the area of intelligence responsibility assigned to each national intelligence center under subsection (a) of this section continues to meet appropriate intelligence priorities; and

(2) the staffing and management of such center remains appropriate for the accomplishment of the mission of such center.

(f) Termination

The Director of National Intelligence may terminate any national intelligence center under subsection (a) of this section.

(g) Separate budget account

The Director of National Intelligence shall, as appropriate, include in the National Intelligence Program budget a separate line item for each national intelligence center under subsection (a) of this section.

(July 26, 1947, ch. 343, title I, § 119B, as added Pub. L. 108–458, title I, § 1023, Dec. 17, 2004, 118 Stat. 3676.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

SUBCHAPTER II—MISCELLANEOUS AND CONFORMING PROVISIONS

§405. Advisory committees; appointment; compensation of part-time personnel; applicability of other laws

(a) The Administrator of the Federal Emergency Management Agency, the Director of National Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of National Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS–18 of the General Schedule established by section 5332 of title 5, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 203, 205, or 207 of title 18, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

(July 26, 1947, ch. 343, title III, §303, 61 Stat. 507; Aug. 10, 1949, ch. 412, §10(c), 63 Stat. 585; Sept. 3, 1954, ch. 1263, §8, 68 Stat. 1228; Aug. 10, 1956, ch. 1041, §53(b), 68A Stat. 676, 684; 1958 Reorg. Plan No. 1, §2, eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799; Pub. L. 90–608, ch. IV, §402, Oct. 21, 1968, 82 Stat. 1194; Ex. Ord. No. 11725, §3, eff. June 29, 1973, 38 F.R. 17175; Ex. Ord. No. 12148, §§1–103, 4–102, July 20, 1979, 44 F.R. 43239; Pub. L. 97–89, title V, §504, Dec. 4, 1981, 95 Stat. 1153; Pub. L. 100–453, title V, §503, Sept. 29, 1988, 102 Stat. 1910; Pub. L. 108–458, title I, §1071(a)(1)(U), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

References in Text

This Act, referred to in subsec. (a), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Amendments

2004—Subsec. (a). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

1988—Subsec. (a). Pub. L. 100–453 substituted ''Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation, other'' for ''Other'' in last sentence.

1981—Subsec. (a). Pub. L. 97–89, §504(a), substituted ''at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS–18 of the General Schedule established by section 5332 of title 5'' for ''at a rate not to exceed $50 for each day of service''.

Subsec. (b). Pub. L. 97–89, §504(b), substituted ''section 203, 205, or 207 of title 18'' for ''section 281, 283, or 284 of title 18''.

1956—Subsec. (a). Act Aug. 10, 1956, struck out ''Secretary of Defense, the'' after ''The''.

1954—Act Sept. 3, 1954, amended section generally, substituting the ''Director of the Office of Defense Mobilization'' for ''Chairman of the National Security Resources Board'' in subsec. (a), and substituting ''sections 281, 283, or 284 of title 18'' for ''sections 198 or 203 of title 18 or section 119(e) of title 41''.

1949—Subsec. (a). Act Aug. 10, 1949, inserted reference to National Security Council, and increased per diem payable to consultants from $35 to $50.

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 401 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 401 of this title.

Effective Date of 1981 Amendment

Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see section 806 of Pub. L. 97–89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

Transfer of Functions

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

''Administrator of the Federal Emergency Management Agency'' substituted in subsec. (a) for ''Director of the Office of Defense Mobilization''. See notes set out under section 404 of this title.

National Security Council transferred to Executive Office of President by Reorg. Plan No. 4 of 1949, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1067. See note set out under section 402 of this title.

Termination of Advisory Committees

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established

by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 406. Omitted

CODIFICATION

Section, act June 24, 1948, ch. 632, 62 Stat. 648, which related to authority of former Chairman of National Security Resources Board to appoint advisory committee members and part-time advisory personnel at rates up to $50 per day, has been superseded by section 405(a) of this title.

§ 407. Study or plan of surrender; use of appropriations

No part of the funds appropriated in any act shall be used to pay (1) any person, firm, or corporation, or any combinations of persons, firms, or corporations, to conduct a study or to plan when and how or in what circumstances the Government of the United States should surrender this country and its people to any foreign power, (2) the salary or compensation of any employee or official of the Government of the United States who proposes or contracts or who has entered into contracts for the making of studies or plans for the surrender by the Government of the United States of this country and its people to any foreign power in any event or under any circumstances.

(Pub. L. 85–766, ch. XVI, § 1602, Aug. 27, 1958, 72 Stat. 884.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriation Act, 1959, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 408. Applicable laws

Except to the extent inconsistent with the provisions of this Act, the provisions of title 4 of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense.

(July 26, 1947, ch. 343, title II, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Title 4 of the Revised Statutes, referred to in text, was entitled ''Provisions Applicable to All Executive Departments'', and consisted of R.S. §§ 158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, and 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514 and 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 171–1 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 409. Definitions of military departments

(a) The term ''Department of the Army'' as used in this Act shall be construed to mean the Department of the Army at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(b) The term ''Department of the Navy'' as used in this Act shall be construed to mean the Department of the Navy at the seat of the government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(c) The term ''Department of the Air Force'' as used in this Act shall be construed to mean the Department of the Air Force at the seat of the government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(July 26, 1947, ch. 343, title II, §§ 205(c), 206(a), 207(c), 61 Stat. 501, 502.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was formerly classified to section 171–2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

Prior to the enactment of Title 10, Armed Forces, by act Aug. 10, 1956, subsecs. (a), (b), and (c) of this section were classified to sections 181–1(c), 411a(a), and 626(c), respectively, of former Title 5.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 409a. National Security Agency voluntary separation

(a) Short title

This section may be cited as the ''National Security Agency Voluntary Separation Act''.

(b) Definitions

For purposes of this section—

(1) the term ''Director'' means the Director of the National Security Agency; and

(2) the term ''employee'' means an employee of the National Security Agency, serving under an appointment without time limitation, who has been currently employed by the National Security Agency for a continuous period of at least 12 months prior to the effective date of the program established under subsection (c) of this section, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5 or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(c) Establishment of program

Notwithstanding any other provision of law, the Director, in his sole discretion, may establish a program under which employees may, after October 1, 2000, be eligible for early retirement, offered separation pay to separate from service voluntarily, or both.

(d) Early retirement

An employee who—

(1) is at least 50 years of age and has completed 20 years of service; or

(2) has at least 25 years of service,

may, pursuant to regulations promulgated under this section, apply and be retired from the National Security Agency and receive benefits in accordance with chapter 83 or 84 of title 5 if the employee has not less than 10 years of service with the National Security Agency.

(e) Amount of separation pay and treatment for other purposes

(1) Amount

Separation pay shall be paid in a lump sum and shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5 if the employee were entitled to payment under such section; or

(B) $25,000.

(2) Treatment

Separation pay shall not—

(A) be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(B) be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5 based on any other separation.

(f) Reemployment restrictions

An employee who receives separation pay under such program may not be reemployed by the National Security Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the National Security Agency. If the employment is with an Executive agency (as defined by section 105 of title 5), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(g) Bar on certain employment

(1) Bar

An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the National Security Agency; or

(B) participate in any manner in the award, modification, or extension of any contract for property or services with the National Security Agency,

during the 12-month period beginning on the effective date of the employee's separation from service.

(2) Penalty

An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section multiplied by the proportion of the 12-month period during which the employee was in violation of the agreement.

(h) Limitations

Under this program, early retirement and separation pay may be offered only—

(1) with the prior approval of the Director;

(2) for the period specified by the Director; and

(3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(i) Regulations

Before an employee may be eligible for early retirement, separation pay, or both, under this

section, the Director shall prescribe such regulations as may be necessary to carry out this section.

(j) Notification of exercise of authority

The Director may not make an offer of early retirement, separation pay, or both, pursuant to this section until 15 days after submitting to the congressional intelligence committees a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (h) of this section, and includes[1] the proposed regulations issued pursuant to subsection (i) of this section.

(k) Remittance of funds

In addition to any other payment that is required to be made under subchapter III of chapter 83 or chapter 84 of title 5, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, an amount equal to 15 percent of the final basic pay of each employee to whom a voluntary separation payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).

(July 26, 1947, ch. 343, title III, § 301, as added Pub. L. 106–567, title III, § 304(a), Dec. 27, 2000, 114 Stat. 2836; amended Pub. L. 107–306, title III, § 353(b)(2)(A), title VIII, § 841(b), Nov. 27, 2002, 116 Stat. 2402, 2431.)

REFERENCES IN TEXT

Section 4(a) of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (k), is section 4(a) of Pub. L. 103–226, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 301 of act July 26, 1947, ch. 343, title III, 61 Stat. 507; Apr. 2, 1949, ch. 47, § 2, 63 Stat. 31; Aug. 10, 1949, ch. 412, § 10(a), 63 Stat. 585, was classified to sections 171b and 171c–1 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632.

AMENDMENTS

2002—Subsec. (j). Pub. L. 107–306, § 841(b), substituted "Notification of exercise of authority" for "Reporting requirements" in subsec. heading and struck out "(1) NOTIFICATION.—" before "The Director may" and par. (2) which read as follows:

"(2) ANNUAL REPORT.—The Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate an annual report on the effectiveness and costs of carrying out this section."

Pub. L. 107–306, § 353(b)(2)(A), substituted "congressional intelligence committees" for "Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate".

[1] So in original. Probably should be "including".

§ 409b. Authority of Federal Bureau of Investigation to award personal services contracts

(a) In general

The Director of the Federal Bureau of Investigation may enter into personal services contracts if the personal services to be provided under such contracts directly support the intelligence or counterintelligence missions of the Federal Bureau of Investigation.

(b) Inapplicability of certain requirements

Contracts under subsection (a) of this section shall not be subject to the annuity offset requirements of sections 8344 and 8468 of title 5, the requirements of section 3109 of title 5, or any law or regulation requiring competitive contracting.

(c) Contract to be appropriate means of securing services

The Chief Contracting Officer of the Federal Bureau of Investigation shall ensure that each personal services contract entered into by the Director under this section is the appropriate means of securing the services to be provided under such contract.

(July 26, 1947, ch. 343, title III, § 302, as added Pub. L. 108–177, title III, § 311(a)(1), Dec. 13, 2003, 117 Stat. 2605.)

PRIOR PROVISIONS

A prior section 302 of act July 26, 1947, ch. 343, title III, 61 Stat. 507; Aug. 10, 1949, ch. 412, § 10(b), 63 Stat. 585; Aug. 10, 1956, ch. 1041, § 21, 70A Stat. 629, was classified to section 171c–2 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 87–651, title III, § 307A, Sept. 7, 1962, 76 Stat. 526.

§ 409b–1. Reports on exercise of authority

(1) Not later than one year after December 13, 2003, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate committees of Congress a report on the exercise of the authority in section 409b of this title.

(2) Each report under this section shall include, for the one-year period ending on the date of such report, the following:

(A) The number of contracts entered into during the period.

(B) The cost of each such contract.

(C) The length of each such contract.

(D) The types of services to be provided under each such contract.

(E) The availability, if any, of United States Government personnel to perform functions similar to the services to be provided under each such contract.

(F) The efforts of the Federal Bureau of Investigation to fill available personnel vacancies, or request additional personnel positions, in areas relating to the intelligence or counterintelligence mission of the Bureau.

(3) Each report under this section shall be submitted in unclassified form, but may include a classified annex.

(4) In this section—

(A) for purposes of the submittal of the classified annex to any report under this section,

the term ''appropriate committees of Congress'' means—

(i) the Select Committee on Intelligence of the Senate; and

(ii) the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) for purposes of the submittal of the unclassified portion of any report under this section, the term ''appropriate committees of Congress'' means—

(i) the committees specified in subparagraph (A);

(ii) the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate; and

(iii) the Committees on Appropriations, Government Reform and Oversight, and the Judiciary of the House of Representatives.

(Pub. L. 108–177, title III, §311(b), Dec. 13, 2003, 117 Stat. 2605.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§410. "Function" and "Department of Defense" defined

(a) As used in this Act, the term ''function'' includes functions, powers, and duties.

(b) As used in this Act, the term ''Department of Defense'' shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.

(July 26, 1947, ch. 343, title III, §308, 61 Stat. 509; Aug. 10, 1949, ch. 412, §12(e), 63 Stat. 591.)

PARTIAL REPEAL

Section 307 of Pub. L. 87–651, title III, Sept. 7, 1962, 76 Stat. 526, repealed subsection (a) of this section less its applicability to sections 401, 402, 403, 404, and 405 of this title.

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

Title II of this Act, referred to in subsec. (b), means title II of the National Security Act of 1947, act July 26, 1947, ch. 343, 61 Stat. 499, as amended, which enacted sections 408 and 409 of this title and sections 171, 171–1, 171–2, 171a, 171c, 171d, and 171e to 171i of former Title 5, Executive Department and Government Officers and Employees, amended sections 1 and 11 of former Title 5 and section 1517 of Title 15, Commerce and Trade, and enacted a provision formerly set out as a note under section 135 [now 137] of Title 10, Armed Forces. Section 171 of former Title 5 was repealed by Pub. L. 87–651, title III, §307, Sept. 7, 1962, and reenacted in part as section 131 of Title 10. Sections 171e, 171f, and 171g of former Title 5 were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, and reenacted as sections 171, 141, 142, and 143 of Title 10, respectively. Sections 171–1 and 171–2 of former Title 5 were transferred to sections 408 and 409 of this title, respectively. For complete classification of title II to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 171n of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1949—Subsec. (b). Act Aug. 10, 1949, substituted definition of ''Department of Defense'' for definition of ''budget program''.

§411. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 [50 U.S.C. 403, 403–3, 403–4, 403–5] and titles V, VI, and VII [50 U.S.C. 413 et seq., 421 et seq., 431 et seq.]).

(July 26, 1947, ch. 343, title III, §307, 61 Stat. 509; Pub. L. 103–178, title III, §309, Dec. 3, 1993, 107 Stat. 2036.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. Titles V, VI, and VII of the Act are classified generally to subchapters III (§413 et seq.), IV (§421 et seq.), and V (§431 et seq.) of this chapter, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was formerly classified to section 171m of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1993—Pub. L. 103–178 substituted ''provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 and titles V, VI, and VII)'' for ''provisions and purposes of this Act''.

§412. Repealing and savings provisions

All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a man-

ner that will render ineffective the provisions of this title.

(July 26, 1947, ch. 343, title IV, § 411, as added Aug. 10, 1949, ch. 412, § 11, 63 Stat. 585.)

REFERENCES IN TEXT

This title, referred to in text, means title IV of act July 26, 1947, ch. 343, as added Aug. 10, 1949, ch. 412, § 11, 63 Stat. 585, which enacted section 412 of this title and sections 172, 172a to 172d, and 172f to 172j of former Title 5, Executive Departments and Government Officers and Employees, and amended section 172e of former Title 5 and section 72 of former Title 31, Money and Finance. Section 172 of former Title 5 was repealed by Pub. L. 87–651, title III, § 307, Sept. 7, 1962, 76 Stat. 526, and reenacted as section 136 [now 138] of Title 10, Armed Forces. Section 172a of former Title 5 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as sections 3014, 5061, and 8014 of Title 10. Sections 172b to 172d and 172f to 172h of former Title 5 were repealed by Pub. L. 87–651, title III, § 307, Sept. 7, 1962, 76 Stat. 526, and reenacted as sections 2203, 2204, 2208, 2207, 126, and 2206 of Title 10, respectively. Section 172i of former Title 5 was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, and reenacted as section 2701 of Title 10. Section 172j, of former Title 5 was transferred to section 412 of this title. For complete classification of title IV to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 172j of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SUBCHAPTER III—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

§ 413. General Congressional oversight provisions

(a) Reports to Congressional committees of intelligence activities and anticipated activities

(1) The President shall ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this subchapter.

(2) Nothing in this subchapter shall be construed as requiring the approval of the congressional intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.

(b) Reports concerning illegal intelligence activities

The President shall ensure that any illegal intelligence activity is reported promptly to the congressional intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

(c) Procedures for reporting information

The President and the congressional intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of this subchapter.

(d) Procedures to protect from unauthorized disclosure

The House of Representatives and the Senate shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the congressional intelligence committees or to Members of Congress under this subchapter. Such procedures shall be established in consultation with the Director of National Intelligence. In accordance with such procedures, each of the congressional intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

(e) Construction of authority conferred

Nothing in this Act shall be construed as authority to withhold information from the congressional intelligence committees on the grounds that providing the information to the congressional intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

(f) "Intelligence activities" defined

As used in this section, the term ''intelligence activities'' includes covert actions as defined in section 413b(e) of this title, and includes financial intelligence activities.

(July 26, 1947, ch. 343, title V, § 501, as added Pub. L. 102–88, title VI, § 602(a)(2), Aug. 14, 1991, 105 Stat. 441; amended Pub. L. 107–306, title III, §§ 342(b), 353(b)(3)(A), (7), Nov. 27, 2002, 116 Stat. 2399, 2402; Pub. L. 108–458, title I, § 1071(a)(1)(V), Dec. 17, 2004, 118 Stat. 3689.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

PRIOR PROVISIONS

A prior section 413, act July 26, 1947, ch. 343, title V, § 501, as added Oct. 14, 1980, Pub. L. 96–450, title IV, § 407(b)(1), 94 Stat. 1981, related to Congressional oversight of intelligence activities, prior to repeal by Pub. L. 102–88, § 602(a)(2).

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsec. (a). Pub. L. 107–306, § 353(b)(3)(A), substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

Subsec. (a)(2), (3). Pub. L. 107–306, § 353(b)(7), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''As used in this subchapter, the term 'congressional intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''

Subsecs. (b) to (e). Pub. L. 107–306, § 353(b)(3)(A), substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

Subsec. (f). Pub. L. 107–306, § 342(b), inserted '', and includes financial intelligence activities'' before period at end.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memo-

randum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 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 401 of this title.

§ 413a. Reporting of intelligence activities other than covert actions

(a) In general

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 413b(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the congressional intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(b) Form and contents of certain reports

Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the congressional intelligence committees for purposes of subsection (a)(1) of this section shall be in writing, and shall contain the following:

(1) A concise statement of any facts pertinent to such report.

(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

(c) Standards and procedures for certain reports

The Director of National Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a) of this section, shall establish standards and procedures applicable to reports covered by subsection (b) of this section.

(July 26, 1947, ch. 343, title V, § 502, as added Pub. L. 102–88, title VI, § 602(a)(2), Aug. 14, 1991, 105 Stat. 442; amended Pub. L. 107–108, title III, § 305, Dec. 28, 2001, 115 Stat. 1398; Pub. L. 107–306, title III, § 353(b)(3)(B), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–458, title I, § 1071(a)(1)(W), (X), Dec. 17, 2004, 118 Stat. 3689.)

PRIOR PROVISIONS

A prior section 502 of act July 26, 1947, ch. 343, was renumbered section 504 and is classified to section 414 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(W), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

Subsec. (c). Pub. L. 108–458, § 1071(a)(1)(X), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsecs. (a), (b). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

2001—Pub. L. 107–108 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

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 401 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 401 of this title.

FURNISHING OF INTELLIGENCE INFORMATION TO SENATE AND HOUSE SELECT COMMITTEES ON INTELLIGENCE

Section 405 of Pub. L. 102–88 provided that:

''(a) FURNISHING OF SPECIFIC INFORMATION.—In accordance with title V of the National Security Act of 1947 [50 U.S.C. 413 et seq.], the head of any department or agency of the United States involved in any intelligence activities which may pertain to United States military personnel listed as prisoner, missing, or unaccounted for in military actions shall furnish any information or documents in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate.

''(b) ACCESS BY COMMITTEES AND MEMBERS OF CONGRESS.—In accordance with Senate Resolution 400, Ninety-Fourth Congress, and House Resolution 658, Ninety-Fifth Congress, the committees named in subsection (a) shall, upon request and under such regulations as the committees have prescribed to protect the classification of such information, make any information described in subsection (a) available to any other committee or any other Member of Congress and appropriately cleared staff.''

§ 413b. Presidential approval and reporting of covert actions

(a) Presidential findings

The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

(2) Except as permitted by paragraph (1), a finding may not authorize or sanction a covert action, or any aspect of any such action, which already has occurred.

(3) Each finding shall specify each department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such action. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

(4) Each finding shall specify whether it is contemplated that any third party which is not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

(b) Reports to congressional intelligence committees; production of information

To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

(1) shall keep the congressional intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

(2) shall furnish to the congressional intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(c) Timing of reports; access to finding

(1) The President shall ensure that any finding approved pursuant to subsection (a) of this section shall be reported to the congressional intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

(2) If the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.

(3) Whenever a finding is not reported pursuant to paragraph (1) or (2) of this section,[1] the President shall fully inform the congressional intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each congressional intelligence committee. When access to a finding is limited to the Members of Congress specified in paragraph (2), a statement of the reasons for limiting such access shall also be provided.

(d) Changes in previously approved actions

The President shall ensure that the congressional intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2) of this section, are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c) of this section.

(e) "Covert action" defined

As used in this subchapter, the term ''covert action'' means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) traditional diplomatic or military activities or routine support to such activities;

(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(f) Prohibition on covert actions intended to influence United States political processes, etc.

No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

(July 26, 1947, ch. 343, title V, § 503, as added Pub. L. 102–88, title VI, § 602(a)(2), Aug. 14, 1991, 105 Stat. 442; amended Pub. L. 107–306, title III, § 353(b)(3)(C), (8), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–458, title I, § 1071(a)(1)(Y), Dec. 17, 2004, 118 Stat. 3689.)

[1] So in original. Probably should be ''subsection,''.

PRIOR PROVISIONS

A prior section 503 of act July 26, 1947, ch. 343, was renumbered section 505 and is classified to section 415 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions.

2002—Subsecs. (b), (c)(1) to (3). Pub. L. 107–306, §353(b)(3)(C), substituted ''congressional intelligence committees'' for ''intelligence committees'' wherever appearing.

Subsec. (c)(4). Pub. L. 107–306, §353(b)(8), substituted ''congressional intelligence committee'' for ''intelligence committee''.

Subsec. (d). Pub. L. 107–306, §353(b)(3)(C), substituted ''congressional intelligence committees'' for ''intelligence committees''.

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 401 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 401 of this title.

§413c. Communications with the Committees on Armed Services of the Senate and the House of Representatives

(a) Requests of committees

The Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any element of the intelligence community shall, not later than 45 days after receiving a written request from the Chair or ranking minority member of the Committee on Armed Services of the Senate or the Committee on Armed Services of the House of Representatives for any existing intelligence assessment, report, estimate, or legal opinion relating to matters within the jurisdiction of such Committee, make available to such committee such assessment, report, estimate, or legal opinion, as the case may be.

(b) Assertion of privilege

(1) In general

In response to a request covered by subsection (a), the Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any element of the intelligence community shall provide to the Committee making such request the document or information covered by such request unless the President determines that such document or information shall not be provided because the President is asserting a privilege pursuant to the Constitution of the United States.

(2) Submission to Congress

The White House Counsel shall submit to Congress in writing any assertion by the President under paragraph (1) of a privilege pursuant to the Constitution.

(c) Definitions

In this section:

(1) Intelligence community

The term ''intelligence community'' has the meaning given the term in section 401a(4) of this title.

(2) Intelligence assessment

The term ''intelligence assessment'' means an intelligence-related analytical study of a subject of policy significance and does not include building-block papers, research projects, and reference aids.

(3) Intelligence estimate

The term ''intelligence estimate'' means an appraisal of available intelligence relating to a specific situation or condition with a view to determining the courses of action open to an enemy or potential enemy and the probable order of adoption of such courses of action.

(Pub. L. 110–181, div. A, title X, §1079, Jan. 28, 2008, 122 Stat. 334.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2008, and not as part of the National Security Act of 1947 which comprises this chapter.

§414. Funding of intelligence activities

(a) Obligations and expenditures for intelligence or intelligence-related activity; prerequisites

Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(1) those funds were specifically authorized by the Congress for use for such activities; or

(2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 413b of this title concerning any significant anticipated intelligence activity, the Director of the Central Intelligence Agency has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(3) in the case of funds specifically authorized by the Congress for a different activity—

(A) the activity to be funded is a higher priority intelligence or intelligence-related activity;

(B) the need for funds for such activity is based on unforseen[1] requirements; and

(C) the Director of National Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity;

(4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31.

(b) Activities denied funding by Congress

Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

[1] So in original. Probably should be ''unforeseen''.

(c) Presidential finding required for expenditure of funds on covert action

No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 413b(e) of this title, unless and until a Presidential finding required by subsection (a) of section 413b of this title has been signed or otherwise issued in accordance with that subsection.

(d) Report to Congressional committees required for expenditure of nonappropriated funds for intelligence activity

(1) Except as otherwise specifically provided by law, funds available to an intelligence agency that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify—

(A) the types of activities for which nonappropriated funds may be expended; and

(B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.

(2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the congressional intelligence committees and, as appropriate, the Director of National Intelligence or the Secretary of Defense.

(e) Definitions

As used in this section—

(1) the term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the term ''appropriate congressional committees'' means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and

(3) the term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

(July 26, 1947, ch. 343, title V, § 504, formerly § 502, as added Pub. L. 99–169, title IV, § 401(a), Dec. 4, 1985, 99 Stat. 1004; renumbered § 504 and amended Pub. L. 102–88, title VI, §§ 602(a)(1), (c)(1), 603, Aug. 14, 1991, 105 Stat. 441, 444; Pub. L. 107–306, title III, § 353(b)(3)(D), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–458, title I, § 1071(a)(1)(Z), (AA), (5), Dec. 17, 2004, 118 Stat. 3689, 3690.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–458, § 1071(a)(5), substituted ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence''.

Subsec. (a)(3)(C). Pub. L. 108–458, § 1071(a)(1)(Z), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (d)(2). Pub. L. 108–458, § 1071(a)(1)(AA), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsec. (d)(2). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''intelligence committees''.

1991—Subsec. (a)(2). Pub. L. 102–88, § 602(c)(1), substituted ''section 413b'' for ''section 413''.

Subsecs. (c) to (e). Pub. L. 102–88, § 603, added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

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 401 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 401 of this title.

LIMITATION ON TRANSFER OF FUNDS BETWEEN CIA AND DEPARTMENT OF DEFENSE; CONGRESSIONAL NOTIFICATION REQUIRED

Pub. L. 103–139, title VIII, § 8107, Nov. 11, 1993, 107 Stat. 1464, provided that: ''During the current fiscal year and thereafter, no funds may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–396, title IX, § 9014, Oct. 6, 1992, 106 Stat. 1903.

Pub. L. 102–172, title VIII, § 8014, Nov. 26, 1991, 105 Stat. 1174.

Pub. L. 101–511, title VIII, § 8015, Nov. 5, 1990, 104 Stat. 1878.

Pub. L. 101–165, title IX, § 9022, Nov. 21, 1989, 103 Stat. 1134.

Pub. L. 100–463, title VIII, § 8035, Oct. 1, 1988, 102 Stat. 2270–23.

Pub. L. 100–202, § 101(b) [title VIII, § 8037], Dec. 22, 1987, 101 Stat. 1329–43, 1329–68.

SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET

Pub. L. 102–496, title III, § 303, Oct. 24, 1992, 106 Stat. 3183, provided that: ''It is the sense of Congress that, beginning in 1993, and in each year thereafter, the ag-

gregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.'' Similar provisions were contained in the following prior appropriation act: Pub. L. 102–183, title VII, § 701, Dec. 4, 1991, 105 Stat. 1270.

LIMITATION OF EXPENDITURE OF FUNDS APPROPRIATED FOR DEPARTMENT OF DEFENSE INTELLIGENCE PROGRAMS

Pub. L. 102–172, title VIII, § 8089, Nov. 26, 1991, 105 Stat. 1193, provided that: ''During the current fiscal year and hereafter, none of the funds appropriated for intelligence programs to the Department of Defense which are transferred to another Federal agency for execution shall be expended by the Department of Defense in any fiscal year in excess of amounts required for expenditure during such fiscal year by the Federal agency to which such funds are transferred.''

ENHANCED SECURITY COUNTERMEASURES CAPABILITIES; APPLICATION OF SECTION

Pub. L. 99–169, title IV, § 401(c), Dec. 4, 1985, 99 Stat. 1006, provided that the amendment made by section 401(a) of Pub. L. 99–169, enacting this section, would not apply with respect to funds appropriated to the Director of Central Intelligence under the heading ''ENHANCED SECURITY COUNTERMEASURES CAPABILITIES'' in the Supplemental Appropriations Act, 1985, Pub. L. 99–88, Aug. 15, 1985, 99 Stat. 311.

§ 415. Notice to Congress of certain transfers of defense articles and defense services

(a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services, exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this subchapter.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2301 et seq.], the Arms Export Control Act [22 U.S.C. 2751 et seq.], title 10 (including a law enacted pursuant to section 7307(a) of that title), or the Federal Property and Administrative Services Act of 1949,[1] and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms ''defense articles'' and ''defense services'' mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act [22 U.S.C. 2778] (22 CFR part 121);

(3) the term ''transfer'' means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term ''value'' means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

(July 26, 1947, ch. 343, title V, § 505, formerly § 503, as added Pub. L. 99–569, title VI, § 602(a), Oct. 27, 1986, 100 Stat. 3203; renumbered § 505 and amended Pub. L. 102–88, title VI, §§ 602(a)(1), (c)(2), 604, Aug. 14, 1991, 105 Stat. 441, 444, 445; Pub. L. 103–160, div. A, title VIII, § 828(d)(1), Nov. 30, 1993, 107 Stat. 1715.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(B)(i), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part II of the Act is classified generally to subchapter II (§ 2301 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to subchapter II to exclude parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of Title 22, and sections 2348c and 2349aa–5 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2)(B)(i), is Pub. L. 90–269, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(2)(B)(i), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1993—Subsec. (a)(2)(B)(i). Pub. L. 103–160 substituted ''section 7307(a)'' for ''section 7307(b)(1)''.

1991—Subsec. (a)(1). Pub. L. 102–88 inserted '', or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,'' after ''service'' and substituted ''this subchapter'' for ''section 413 of this title''.

§ 415a. Specificity of National Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence

(a) In general

The budget justification materials submitted to Congress in support of the budget of the

[1] See References in Text note below.

President for a fiscal year that is submitted to Congress under section 1105(a) of title 31 shall set forth separately the aggregate amount requested for that fiscal year for the National Intelligence Program for each of the following:

(1) Counterterrorism.
(2) Counterproliferation.
(3) Counternarcotics.
(4) Counterintelligence.

(b) Election of classified or unclassified form

Amounts set forth under subsection (a) of this section may be set forth in unclassified form or classified form, at the election of the Director of Central Intelligence.

(July 26, 1947, ch. 343, title V, § 506, as added Pub. L. 107–306, title III, § 311(a), Nov. 27, 2002, 116 Stat. 2390; amended Pub. L. 108–458, title I, § 1074(b)(1)(A), Dec. 17, 2004, 118 Stat. 3694.)

AMENDMENTS

2004—Pub. L. 108–458, § 1074(b)(1)(A)(ii), struck out ''Foreign'' before ''Intelligence'' in section catchline.

Subsec. (a). Pub. L. 108–458, § 1074(b)(1)(A)(i), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

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 401 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 401 of this title.

§ 415a–1. Budget treatment of costs of acquisition of major systems by the intelligence community

(a) Independent cost estimates

(1) The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full lifecycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

(2) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the major system in each fiscal year of the proposed period of development, procurement, and operation of the major system.

(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(B) In the case of a program of the intelligence community for which an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before December 13, 2003, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed $500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for such major system.

(4) The independent cost estimate for a major system shall be updated upon—

(A) the completion of any preliminary design review associated with the major system;
(B) any significant modification to the anticipated design of the major system; or
(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under that paragraph.

(b) Preparation of independent cost estimates

(1) The Director shall establish within the Office of the Director of National Intelligence for Community Management an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a) of this section, unless a designation is made under paragraph (2).

(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) of this section be prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2434(b)(1)(A) of title 10.

(c) Utilization in budgets of President

(1) If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the President shall, subject to paragraph (2), request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

(2) If the amount of appropriations requested in the budget of the President for the development or procurement of a major system is less than the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget, the President shall include in the budget justification materials submitted to Congress in support of such budget—

(A) an explanation for the difference between the amount of appropriations requested and the amount of appropriations identified in the most current independent cost estimate;

(B) a description of the importance of the major system to the national security;

(C) an assessment of the consequences for the funding of all programs of the National Foreign Intelligence Program in future fiscal years if the most current independent cost estimate for the major system is accurate and additional appropriations are required in future fiscal years to ensure the continued development or procurement of the major system, including the consequences of such funding shortfalls on the major system and all other programs of the National Foreign Intelligence Program; and

(D) such other information on the funding of the major system as the President considers appropriate.

(d) Inclusion of estimates in budget justification materials

The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

(e) Definitions

In this section:

(1) The term ''budget of the President'' means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31.

(2) The term ''independent cost estimate'' means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of a major system, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

(3) The term ''major system'' means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding $500,000,000 (in current fiscal year dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.

(July 26, 1947, ch. 343, title V, §506A, as added Pub. L. 108–177, title III, §312(b)(1), Dec. 13, 2003, 117 Stat. 2607; amended Pub. L. 108–458, title I, §§1071(a)(1)(BB), 1072(a)(6), Dec. 17, 2004, 118 Stat. 3689, 3692.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, §1071(a)(1)(BB), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, §1072(a)(6), substituted ''Office of the Director of National Intelligence'' for ''Office of the Deputy Director of Central Intelligence''.

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 401 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 401 of this title.

EFFECTIVE DATE

Pub. L. 108–177, title III, §312(c), Dec. 13, 2003, 117 Stat. 2609, provided that: ''The amendments made by subsection (b) [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 13, 2003].''

CONGRESSIONAL FINDINGS

Pub. L. 108–177, title III, §312(a), Dec. 13, 2003, 117 Stat. 2606, provided that: ''Congress makes the following findings:

''(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the costs of acquisition of major systems by the intelligence community.

''(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

''(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

''(4) Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

''(5) Recognizing the benefits associated with independent cost estimates for the acquisition of major systems, the Secretary of Defense has built upon the statutory requirement in section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

''(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.''

LIMITATIONS ON MAJOR SYSTEM PROCUREMENT, ACQUISITION, AND DEVELOPMENT

Pub. L. 108–177, title III, § 312(d), Dec. 13, 2003, 117 Stat. 2609, provided that:

''(1)(A) For each major system for which funds have been authorized for a fiscal year before fiscal year 2005, or for which funds are sought in the budget of the President for fiscal year 2005, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and for which no independent cost estimate has been provided to Congress, no contract, or option to contract, for the procurement or acquisition of such major system may be entered into, or option to contract be exercised, before the date of the enactment of an Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government.

''(B) Subparagraph (A) shall not affect any contract for procurement or acquisition that was entered into before the date of the enactment of this Act [Dec. 13, 2003].

''(2) Commencing as of the date of the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, no funds may be obligated or expended for the development or procurement of a major system until the President has complied with the requirements of section 506A of the National Security Act of 1947 (as added by subsection (b)) [50 U.S.C. 415a–1] with respect to such major system.

''(3) In this subsection, the terms 'independent cost estimate' and 'major system' have the meaning given such terms in subsection (e) of section 506A of the National Security Act of 1947 (as so added) [50 U.S.C. 415a–1(e)].''

§ 415a–2. Exhibits for inclusion with budget justification books

Beginning with the fiscal year 2010 budget request, the Director of National Intelligence shall include the budget exhibits identified in paragraphs (1) and (2) as described in the Department of Defense Financial Management Regulation with the congressional budget justification books.

(1) For procurement programs requesting more than $20,000,000 in any fiscal year, the P–1, Procurement Program; P–5, Cost Analysis; P–5a, Procurement History and Planning; P–21, Production Schedule; and P–40[1] Budget Item Justification.

(2) For research, development, test and evaluation projects requesting more than $10,000,000 in any fiscal year, the R–1, RDT&E Program; R–2, RDT&E Budget Item Justification; R–3, RDT&E Project Cost Analysis; and R–4, RDT&E Program Schedule Profile.

(Pub. L. 110–329, div. C, title VIII, § 8107, Sept. 30, 2008, 122 Stat. 3644.)

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 2009, and also as part of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, and not as part of the National Security Act of 1947 which comprises this chapter.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation act:

Pub. L. 111–118, div. A, title VIII, § 8100, Dec. 19, 2009, 123 Stat. 3450.

[1] So in original. Probably should be followed by a comma.

§ 415a–3. Future-years intelligence program: submission to Congress

The Director of National Intelligence shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years intelligence program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years intelligence program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(Pub. L. 111–118, div. A, title VIII, § 8104, Dec. 19, 2009, 123 Stat. 3451.)

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 2010, and not as part of the National Security Act of 1947 which comprises this chapter.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 110–329, div. C, title VIII, § 8112, Sept. 30, 2008, 122 Stat. 3645.

§ 415b. Dates for submittal of various annual and semiannual reports to the congressional intelligence committees

(a) Annual reports

(1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A) of this section:

(A) The annual report on intelligence required by section 404d of this title.

(B) The annual report on intelligence provided to the United Nations required by section 404g(b)(1) of this title.

(C) The annual report on the protection of the identities of covert agents required by section 423 of this title.

(D) The annual report of the Inspectors Generals of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

(E) The annual report on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 2366 of this title.

(F) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10.

(G) The annual update on foreign industrial espionage required by section 2170b(b) of the Appendix to this title.

(H) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 2291–4(c)(2) of title 22.

(I) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

(N)[1] The annual report on hiring and retention of minority employees in the intelligence

[1] So in original. There are no subpars. designated ''(J)'', ''(K)'', ''(L)'', or ''(M)''.

community required by section 404i(c) of this title.

(2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B) of this section:

(A) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 404i(a) of this title.

(B) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 404i(c) of this title.

(C) The annual report on improvements of the financial statements of the intelligence community for auditing purposes required by section 404i–1 of this title.

(D) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.

(b) Semiannual reports

The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2) of this section:

(1) The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 403q(d)(1) of this title.

(2) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.

(3) The semiannual reports on the activities of the Diplomatic Telecommunications Service Program Office (DTS–PO) required by section 7302(a)(6)(D)(ii) of title 22.

(4) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 1681u(h)(2) of title 15.[2]

(5) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 3414(a)(5)(C) of title 12.

(6) The semiannual report on financial intelligence on terrorist assets required by section 404m of this title.

(c) Submittal dates for reports

(1)(A) Except as provided in subsection (d) of this section, each annual report listed in subsection (a)(1) of this section shall be submitted not later than February 1.

(B) Except as provided in subsection (d) of this section, each annual report listed in subsection (a)(2) of this section shall be submitted not later than December 1.

(2) Except as provided in subsection (d) of this section, each semiannual report listed in subsection (b) of this section shall be submitted not later than February 1 and August 1.

(d) Postponement of submittal

(1) Subject to paragraph (3), the date for the submittal of—

(A) an annual report listed in subsection (a)(1) of this section may be postponed until March 1;

(B) an annual report listed in subsection (a)(2) of this section may be postponed until January 1; and

(C) a semiannual report listed in subsection (b) of this section may be postponed until March 1 or September 1, as the case may be,

if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.

(July 26, 1947, ch. 343, title V, § 507, as added Pub. L. 107–306, title VIII, § 811(a)(1), Nov. 27, 2002, 116 Stat. 2418; amended Pub. L. 108–177, title III, § 361(*l*), Dec. 13, 2003, 117 Stat. 2626.)

REFERENCES IN TEXT

Section 8H(g) of the Inspector General Act of 1978, referred to in subsec. (a)(1)(D), is section 8H(g) of Pub. L. 95–452, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The David L. Boren National Security Education Act of 1991, referred to in subsec. (a)(1)(I), is title VIII of Pub. L. 102–183, Dec. 4, 1991, 105 Stat. 1271, as amended, which is classified generally to chapter 37 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see section 1901(a) of this title and Tables.

Section 826 of the Intelligence Authorization Act for Fiscal Year 2003, referred to in subsec. (a)(2)(D), is section 826 of Pub. L. 107–306, which is set out as a note under section 873 of Title 21, Food and Drugs.

The Classified Information Procedures Act, referred to in subsec. (b)(2), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, as amended, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Section 1681u(h)(2) of title 15, referred to in subsec. (b)(4), was in the original ''section 624(h)(2) of the Fair Credit Reporting Act'', which was translated as reading

[2] See References in Text note below.

''section 625(h)(2) of the Fair Credit Reporting Act'', to reflect the probable intent of Congress and the renumbering of section 624 as 625 by section 358(g)(1)(A) of Pub. L. 107–56.

AMENDMENTS

2003—Subsec. (a)(1)(A). Pub. L. 108–177, § 361(*l*)(1)(A)(i), (ii), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: ''The annual evaluation of the performance and responsiveness of certain elements of the intelligence community required by section 403–5(d) of this title.''

Subsec. (a)(1)(B). Pub. L. 108–177, § 361(*l*)(1)(A)(iii), added subpar. (B). Former subpar. (B) redesignated (A).

Subsec. (a)(1)(C). Pub. L. 108–177, § 361(*l*)(1)(A)(i), (ii), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''The annual report on intelligence community cooperation with Federal law enforcement agencies required by section 404i(a)(2) of this title.''

Subsec. (a)(1)(D). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Subsec. (a)(1)(E). Pub. L. 108–177, § 361(*l*)(1)(A)(iv), added subpar. (E). Former subpar. (E) redesignated (D).

Subsec. (a)(1)(G). Pub. L. 108–177, § 361(*l*)(1)(A)(i), (ii), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: ''The annual report on expenditures for postemployment assistance for terminated intelligence employees required by section 1611(e)(2) of title 10.''

Subsec. (a)(1)(H). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (K) as (H). Former subpar. (H) redesignated (G).

Subsec. (a)(1)(I). Pub. L. 108–177, § 361(*l*)(1)(A)(i), (ii), redesignated subpar. (M) as (I) and struck out former subpar. (I) which read as follows: ''The annual report on coordination of counterintelligence matters with the Federal Bureau of Investigation required by section 402a(c)(6) of this title.''

Subsec. (a)(1)(J). Pub. L. 108–177, § 361(*l*)(1)(A)(i), struck out subpar. (J) which read as follows: ''The annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets required by section 404n–3 of this title.''

Subsec. (a)(1)(K). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (K) as (H).

Subsec. (a)(1)(L). Pub. L. 108–177, § 361(*l*)(1)(A)(i), struck out subpar. (L) which read as follows: ''The annual report on exceptions to consumer disclosure requirements for national security investigations under section 1681b(b)(4)(E) of title 15.''

Subsec. (a)(1)(M). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), redesignated subpar. (M) as (I).

Subsec. (a)(1)(N). Pub. L. 108–177, § 361(*l*)(1)(A)(ii), which directed that subpar. (N) be redesignated, could not be executed because there was no corresponding subpar. provided for such redesignation.

Subsec. (a)(2). Pub. L. 108–177, § 361(*l*)(1)(B)(iii), (iv), redesignated subpars. (D) and (G) as (C) and (D), respectively, and struck out subpars. (C), (E), and (F) which read as follows:

''(C) The annual report on covert leases required by section 404i(e) of this title.

''(E) The annual report on activities of personnel of the Federal Bureau of Investigation outside the United States required by section 540C(c)(2) of title 28.

''(F) The annual report on intelligence activities of the People's Republic of China required by section 308(c) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 50 U.S.C. 402a note).''

Subsec. (a)(2)(A). Pub. L. 108–177, § 361(*l*)(1)(B)(i), substituted ''section 404i(a)'' for ''section 404i(b)''.

Subsec. (a)(2)(B). Pub. L. 108–177, § 361(*l*)(1)(B)(ii), substituted ''section 404i(c)'' for ''section 404i(d)''.

Subsec. (b). Pub. L. 108–177, § 361(*l*)(2), redesignated pars. (2), (3), (5), (6), (7), and (8) as (1), (2), (3), (4), (5), and (6), respectively, and struck out former pars. (1) and (4) which read as follows:

''(1) The periodic reports on intelligence provided to the United Nations required by section 404g(b) of this title.

''(4) The semiannual reports on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 2366(b) of this title.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108–177, set out as a note under section 1611 of Title 10, Armed Forces.

PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY

Pub. L. 108–487, title I, § 107, Dec. 23, 2004, 118 Stat. 3943, provided that:

''(a) CONSULTATION IN PREPARATION.—(1) The Director of National Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act [see Tables for classification], including a provision of the classified Schedule of Authorizations referred to in section 102(a) [118 Stat. 3940] or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

''(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

''(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees or subcommittees of Congress, as appropriate:

''(1) The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

''(2) The Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.''

Similar provisions were contained in the following prior acts:

Pub. L. 108–177, title I, § 107, Dec. 13, 2003, 117 Stat. 2604.

Pub. L. 107–306, title I, § 109, Nov. 27, 2002, 116 Stat. 2389.

Pub. L. 107–108, title V, § 505, Dec. 28, 2001, 115 Stat. 1406.

DEADLINE FOR SUBMITTAL OF VARIOUS OVERDUE REPORTS

Pub. L. 107–306, title VIII, § 801, Nov. 27, 2002, 116 Stat. 2418, provided that certain overdue reports that the Director of Central Intelligence has sole or primary responsibility to present to Congress must be submitted to Congress no later than 180 days after Nov. 27, 2002, or amounts available to the Director to carry out the functions and duties of the Director's Office would be reduced by ⅓.

§ 415c. Availability to public of certain intelligence funding information

(a) Amounts appropriated each fiscal year

Not later than 30 days after the end of each fiscal year beginning with fiscal year 2007, the Director of National Intelligence shall disclose to the public the aggregate amount of funds ap-

propriated by Congress for the National Intelligence Program for such fiscal year.

(b) Waiver

Beginning with fiscal year 2009, the President may waive or postpone the disclosure required by subsection (a) for any fiscal year by, not later than 30 days after the end of such fiscal year, submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

(1) a statement, in unclassified form, that the disclosure required in subsection (a) for that fiscal year would damage national security; and

(2) a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

(c) Definition

As used in this section, the term ''National Intelligence Program'' has the meaning given the term in section 401a(6) of this title.

(Pub. L. 110–53, title VI, § 601, Aug. 3, 2007, 121 Stat. 335.)

CODIFICATION

Section was enacted as part of the Implementing Recommendations of the 9/11 Commission Act of 2007, and not as part of the National Security Act of 1947 which comprises this chapter.

SUBCHAPTER IV—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

§ 421. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources

(a) Disclosure of information by persons having or having had access to classified information that identifies covert agent

Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than ten years, or both.

(b) Disclosure of information by persons who learn identity of covert agents as result of having access to classified information

Whoever, as a result of having authorized access to classified information, learns the identify of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than five years, or both.

(c) Disclosure of information by persons in course of pattern of activities intended to identify and expose covert agents

Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than three years, or both.

(d) Imposition of consecutive sentences

A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

(July 26, 1947, ch. 343, title VI, § 601, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 122; amended Pub. L. 106–120, title III, § 304(b), Dec. 3, 1999, 113 Stat. 1611.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–120, § 304(b)(2)(A), substituted ''shall be fined under title 18'' for ''shall be fined not more than $50,000''.

Subsec. (b). Pub. L. 106–120, § 304(b)(2)(B), substituted ''shall be fined under title 18'' for ''shall be fined not more than $25,000''.

Subsec. (c). Pub. L. 106–120, § 304(b)(2)(C), substituted ''shall be fined under title 18'' for ''shall be fined not more than $15,000''.

Subsec. (d). Pub. L. 106–120, § 304(b)(1), added subsec. (d).

SHORT TITLE

For short title of this subchapter as the ''Intelligence Identities Protection Act of 1982'', see section 1 of Pub. L. 97–200, set out as a Short Title of 1982 Amendment note under section 401 of this title.

§ 422. Defenses and exceptions

(a) Disclosure by United States of identity of covert agent

It is a defense to a prosecution under section 421 of this title that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

(b) Conspiracy, misprision of felony, aiding and abetting, etc.

(1) Subject to paragraph (2), no person other than a person committing an offense under section 421 of this title shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18 or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that

such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

(c) Disclosure to select Congressional committees on intelligence

It shall not be an offense under section 421 of this title to transmit information described in such section directly to either congressional intelligence committee.

(d) Disclosure by agent of own identity

It shall not be an offense under section 421 of this title for an individual to disclose information that solely identifies himself as a covert agent.

(July 26, 1947, ch. 343, title VI, § 602, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 122; amended Pub. L. 107–306, title III, § 353(b)(9), Nov. 27, 2002, 116 Stat. 2402.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–306 substituted ''either congressional intelligence committee'' for ''the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives''.

§ 423. Report

(a) Annual report by President to Congress on measures to protect identities of covert agents

The President, after receiving information from the Director of National Intelligence, shall submit to the congressional intelligence committees an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents. The date for the submittal of the report shall be the date provided in section 415b of this title.

(b) Exemption from disclosure

The report described in subsection (a) of this section shall be exempt from any requirement for publication or disclosure.

(July 26, 1947, ch. 343, title VI, § 603, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123; amended Pub. L. 107–306, title III, § 353(b)(1)(B), title VIII, § 811(b)(1)(E), Nov. 27, 2002, 116 Stat. 2402, 2422; Pub. L. 108–458, title I, § 1071(a)(1)(CC), Dec. 17, 2004, 118 Stat. 3689.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2002—Subsec. (a). Pub. L. 107–306, § 811(b)(1)(E)(i), inserted at end ''The date for the submittal of the report shall be the date provided in section 415b of this title.''

Pub. L. 107–306, § 353(b)(1)(B), substituted ''congressional intelligence committees'' for ''Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives''.

Subsec. (b). Pub. L. 107–306, § 811(b)(1)(E)(ii), struck out at end ''The first such report shall be submitted no later than February 1, 1983.''

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 401 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 401 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 8th item on page 156 identifies a reporting provision which, as subsequently amended, is contained in subsec. (a) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 424. Extraterritorial jurisdiction

There is jurisdiction over an offense under section 421 of this title committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 1101(a)(20) of title 8).

(July 26, 1947, ch. 343, title VI, § 604, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123.)

§ 425. Providing information to Congress

Nothing in this subchapter may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

(July 26, 1947, ch. 343, title VI, § 605, as added Pub. L. 97–200, § 2(a), June 23, 1982, 96 Stat. 123.)

§ 426. Definitions

For the purposes of this subchapter:

(1) The term ''classified information'' means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) The term ''authorized'', when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) The term ''disclose'' means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) The term ''covert agent'' means—

(A) a present or retired officer or employee of an intelligence agency or a present or retired member of the Armed Forces assigned to duty with an intelligence agency—

(i) whose identity as such an officer, employee, or member is classified information, and

(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term ''intelligence agency'' means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

(6) The term ''informant'' means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(7) The terms ''officer'' and ''employee'' have the meanings given such terms by section 2104 and 2105, respectively, of title 5.

(8) The term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term ''United States'', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term ''pattern of activities'' requires a series of acts with a common purpose or objective.

(July 26, 1947, ch. 343, title VI, §606, as added Pub. L. 97–200, §2(a), June 23, 1982, 96 Stat. 123; amended Pub. L. 106–120, title III, §304(a), Dec. 3, 1999, 113 Stat. 1611.)

AMENDMENTS

1999—Par. (4)(A). Pub. L. 106–120 substituted ''a present or retired officer or employee'' for ''an officer or employee'' and ''a present or retired member'' for ''a member''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER V—PROTECTION OF OPERATIONAL FILES

§431. Operational files of the Central Intelligence Agency

(a) Exemption by Director of Central Intelligence Agency

The Director of the Central Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the Central Intelligence Agency from the provisions of section 552 of title 5 (Freedom of Information Act) which require publication or disclosure, or search or review in connection therewith.

(b) "Operational files" defined

In this section, the term ''operational files'' means—

(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Personnel Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except that files which are the sole repository of disseminated intelligence are not operational files.

(c) Search and review for information

Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5 (Freedom of Information Act) or section 552a of title 5 (Privacy Act of 1974);

(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5 (Freedom of Information Act); or

(3) the specific subject matter of an investigation by the congressional intelligence committees, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of National Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

(d) Information derived or disseminated from exempted operational files

(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted

operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) Supersedure of prior law

The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after October 15, 1984, and which specifically cites and repeals or modifies its provisions.

(f) Allegation; improper withholding of records; judicial review

Whenever any person who has requested agency records under section 552 of title 5 (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, except that—

(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(g) Decennial review of exempted operational files

Not less than once every ten years, the Director of the Central Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) of this section to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the Central Intelligence Agency has conducted the review required by paragraph (1) before October 15, 1994, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the Central Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 701, as added Pub. L. 98–477, § 2(a), Oct. 15, 1984, 98 Stat. 2209; amended Pub. L. 104–93, title VII, § 702, Jan. 6, 1996, 109 Stat. 978; Pub. L. 107–306, title III, § 353(b)(10), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108–136, div. A, title IX, § 922(b)(1), (2)(B)–(F), (d)(1)(B), Nov. 24, 2003, 117 Stat. 1573, 1574; Pub. L. 108–458, title I, §§ 1071(a)(6), 1072(a)(7), Dec. 17, 2004, 118 Stat. 3690, 3692.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

The text of section 432 of this title, which was transferred to this section and redesignated as subsec. (g) by Pub. L. 108–136, §922(b)(2)(B), was based on act July 26, 1947, ch. 343, title VII, §702, as added Pub. L. 98–477, §2(a), Oct. 15, 1984, 98 Stat. 2211.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, §1071(a)(6)(A), substituted ''The Director of the Central Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the Central Intelligence Agency'' for ''Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence''.

Subsec. (c)(3). Pub. L. 108–458, §1072(a)(7), substituted ''Office of the Director of National Intelligence'' for ''Office of the Director of Central Intelligence''.

Subsec. (g)(1). Pub. L. 108–458, §1071(a)(6)(B), substituted ''Director of the Central Intelligence Agency and the Director of National Intelligence'' for ''Director of Central Intelligence''.

2003—Pub. L. 108–136, §922(d)(1)(B), substituted ''Operational files of the Central Intelligence Agency'' for ''Exemption of certain operational files from search, review, publication, or disclosure'' in section catchline.

Subsec. (b). Pub. L. 108–136, §922(b)(1), which directed the substitution of ''In this section,'' for ''For purposes of this title'', was executed by making the substitution for ''For the purposes of this title'', to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 108–136, §922(b)(2)(C), inserted heading.

Pub. L. 108–136, §922(b)(2)(B), transferred text of section 432 of this title to this section, redesignated it as subsec. (g), and redesignated subsecs. (a) to (c) of that text as pars. (1) to (3), respectively, of subsec. (g).

Subsec. (g)(1). Pub. L. 108–136, §922(b)(2)(D), substituted ''of this section'' for ''of section 431 of this title''.

Subsec. (g)(2). Pub. L. 108–136, §922(b)(2)(E), which directed the substitution of ''paragraph (1)'' for ''of subsection (a) of this section'', was executed by making the substitution for ''subsection (a) of this section'', to reflect the probable intent of Congress.

Subsec. (g)(3). Pub. L. 108–136, §922(b)(2)(F)(ii), substituted ''to determining the following:'' and subpars. (A) and (B) for ''to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.''

Pub. L. 108–136, §922(b)(2)(F)(i), substituted ''with this subsection'' for ''with this section'' in first sentence.

2002—Subsec. (c)(3). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''intelligence committees of the Congress''.

1996—Subsec. (b)(3). Pub. L. 104–93 substituted ''Office of Personnel Security'' for ''Office of Security''.

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 401 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 401 of this title.

EFFECTIVE DATE

Section 4 of Pub. L. 98–477 provided that: ''The amendments made by subsections (a) and (b) of section 2 [enacting this subchapter and amending section 552a of Title 5, Government Organization and Employees] shall be effective upon enactment of this Act [Oct. 15, 1984] and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.''

§432. Operational files of the National Geospatial-Intelligence Agency

(a) Exemption of certain operational files from search, review, publication, or disclosure

(1) The Director of the National Geospatial-Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the National Geospatial-Intelligence Agency from the provisions of section 552 of title 5 which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ''operational files'' means files of the National Geospatial-Intelligence Agency (hereafter in this section referred to as ''NGA'') concerning the activities of NGA that before the establishment of NGA were performed by the National Photographic Interpretation Center of the Central Intelligence Agency (NPIC), that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The congressional intelligence committees.

(ii) The Intelligence Oversight Board.

(iii) The Department of Justice.

(iv) The Office of General Counsel of NGA.

(v) The Office of the Director of NGA.

(vi) The Office of the Inspector General of the National Geospatial-Intelligence Agency.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph

(1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after December 3, 1999, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5 alleges that NGA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NGA, such information shall be examined ex parte, in camera by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NGA shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

(II) The court may not order NGA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NGA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NGA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NGA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NGA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of National Intelligence prior to submission to the court.

(b) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of the National Geospatial-Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a)(1) of this section to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NGA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NGA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on December 3, 1999, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NGA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 702, formerly title I, § 105B, as added Pub. L. 106–120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616; renumbered § 105C, Pub. L. 107–56, title IX, § 905(a)(1), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 107–306, title III, § 353(b)(5), Nov. 27, 2002, 116 Stat. 2402; renumbered title VII, § 702, and amended Pub. L. 108–136, div. A, title IX, §§ 921(e)(4), 922(c), (d)(1)(C), Nov. 24, 2003, 117 Stat. 1569, 1573, 1574; Pub. L. 108–375, div. A, title X, § 1084(j), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 108–458, title I, § 1071(a)(1)(DD)–(FF), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–163, div. A, title IX, § 933(b)(1), Jan. 6, 2006, 119 Stat. 3416.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(6)(B)(v), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 403–5c of this title prior to renumbering by Pub. L. 108–136, and to section 403–5b of this title prior to renumbering by Pub. L. 107–56.

PRIOR PROVISIONS

A prior section 432, act July 26, 1947, ch. 343, title VII, § 702, as added Pub. L. 98–477, § 2(a), Oct. 15, 1984, 98 Stat.

2211; amended Pub. L. 108–136, div. A, title IX, § 922(b)(2)(A), Nov. 24, 2003, 117 Stat. 1573, was transferred to section 431 of this title and redesignated as subsec. (g) by Pub. L. 108–136, div. A, title IX, § 922(b)(2)(B), Nov. 24, 2003, 117 Stat. 1573.

AMENDMENTS

2006—Subsec. (a)(3)(C)(vi). Pub. L. 109–163 added cl. (vi).

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(DD), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (a)(6)(B)(iv)(I). Pub. L. 108–375 substituted ''responsive records'' for ''responsible records''.

Subsec. (a)(6)(B)(viii). Pub. L. 108–458, § 1071(a)(1)(EE), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(FF), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

2003—Pub. L. 108–136, § 922(d)(1)(C), amended section catchline generally, substituting ''Operational files of the National Geospatial-Intelligence Agency'' for ''Protection of operational files of the National Imagery and Mapping Agency''.

Subsec. (a)(1). Pub. L. 108–136, § 921(e)(4)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in two places.

Subsec. (a)(2)(A). Pub. L. 108–136, § 921(e)(4)(A), (B), substituted ''NGA'' for ''NIMA'' wherever appearing and substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (a)(3)(C)(iv), (v), (6)(A), (B)(i), (iv)(I). Pub. L. 108–136, § 921(e)(4)(B), substituted ''NGA'' for ''NIMA''.

Subsec. (a)(6)(B)(iv)(II). Pub. L. 108–136, § 921(e)(4)(B), (C), substituted ''NGA'' for ''NIMA'' and ''NGA's'' for ''NIMA's''.

Subsec. (a)(6)(B)(vi), (vii). Pub. L. 108–136, § 921(e)(4)(B), substituted ''NGA'' for ''NIMA'' wherever appearing.

Subsec. (b)(1). Pub. L. 108–136, § 921(e)(4)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (b)(3). Pub. L. 108–136, § 921(e)(4)(B), substituted ''NGA'' for ''NIMA'' wherever appearing.

2002—Subsec. (a)(3)(C). Pub. L. 107–306 added cl. (i), redesignated cls. (iii) to (vi) as (ii) to (v), respectively, and struck out former cls. (i) and (ii) which read as follows:

''(i) The Permanent Select Committee on Intelligence of the House of Representatives.

''(ii) The Select Committee on Intelligence of the Senate.''

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 401 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 401 of this title.

TREATMENT OF CERTAIN TRANSFERRED RECORDS

Pub. L. 106–120, title V, § 501(b), Dec. 3, 1999, 113 Stat. 1619, as amended by Pub. L. 108–136, div. A, title IX, § 921(g), Nov. 24, 2003, 117 Stat. 1570, provided that: ''Any record transferred to the National Geospatial-Intelligence Agency from exempted operational files of the Central Intelligence Agency covered by section 701(a) of the National Security Act of 1947 (50 U.S.C. 431(a)) shall be placed in the operational files of the National Geospatial-Intelligence Agency that are established pursuant to section 105B [now 702] of the National Security Act of 1947 [50 U.S.C. 432], as added by subsection (a).''

§ 432a. Operational files of the National Reconnaissance Office

(a) Exemption of certain operational files from search, review, publication, or disclosure

(1) The Director of the National Reconnaissance Office, with the coordination of the Director of National Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5 which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ''operational files'' means files of the National Reconnaissance Office (hereafter in this section referred to as ''NRO'') that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The Permanent Select Committee on Intelligence of the House of Representatives.

(ii) The Select Committee on Intelligence of the Senate.

(iii) The Intelligence Oversight Board.

(iv) The Department of Justice.

(v) The Office of General Counsel of NRO.

(vi) The Office of the Director of NRO.

(vii) The Office of the Inspector General of the NRO.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is

enacted after November 27, 2002, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5 alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined ex parte, in camera by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5 and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of National Intelligence prior to submission to the court.

(b) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of National Intelligence shall review the exemptions in force under subsection (a)(1) of this section to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on November 27, 2002, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 703, formerly title I, § 105D, as added Pub. L. 107–306, title V, § 502(a), Nov. 27, 2002, 116 Stat. 2405; renumbered title VII, § 703, and amended Pub. L. 108–136, div. A, title IX, § 922(c), (d)(1)(D), Nov. 24, 2003, 117 Stat. 1573, 1574; Pub. L. 108–375, div. A, title X, § 1084(j), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 108–458, title I, § 1071(a)(1)(GG)–(II), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–163, div. A, title IX, § 933(b)(2), Jan. 6, 2006, 119 Stat. 3416.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(6)(B)(v), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was formerly classified to section 403–5e of this title prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2006—Subsec. (a)(3)(C)(vii). Pub. L. 109–163 added cl. (vii).

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(GG), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (a)(6)(B)(iv)(I). Pub. L. 108–375 substituted ''responsive records'' for ''responsible records''.

Subsec. (a)(6)(B)(viii). Pub. L. 108–458, § 1071(a)(1)(HH), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(II), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

2003—Pub. L. 108–136 substituted ''Operational files of the National Reconnaissance Office'' for ''Protection of operational files of the National Reconnaissance Office'' in section catchline.

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 401 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 401 of this title.

§ 432b. Operational files of the National Security Agency

(a) Exemption of certain operational files from search, review, publication, or disclosure

The Director of the National Security Agency, in coordination with the Director of National Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5 which require publication, disclosure, search, or review in connection therewith.

(b) Operational files defined

(1) In this section, the term ''operational files'' means—

(A) files of the Signals Intelligence Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

(B) files of the Research Associate Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(2) Files that are the sole repository of disseminated intelligence, and files that have been accessioned into the National Security Agency Archives (or any successor organization) are not operational files.

(c) Search and review for information

Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning any of the following:

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5.

(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5.

(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(C) The Intelligence Oversight Board.

(D) The Department of Justice.

(E) The Office of General Counsel of the National Security Agency.

(F) The Office of the Inspector General of the Department of Defense.

(G) The Office of the Director of the National Security Agency.

(H) The Office of the Inspector General of the National Security Agency.

(d) Information derived or disseminated from exempted operational files

(1) Files that are not exempted under subsection (a) of this section that contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and that have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) Supersedure of other laws

The provisions of subsection (a) of this section may not be superseded except by a provision of law that is enacted after November 24, 2003, and that specifically cites and repeals or modifies such provisions.

(f) Allegation; improper withholding of records; judicial review

(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5 alleges that the National Security Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5.

(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the National Security Agency, such information shall be examined ex parte, in camera by the court.

(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

(C) When a complainant alleges that requested records are improperly withheld be-

cause of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the National Security Agency shall meet its burden under section 552(a)(4)(B) of title 5 by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section.

(ii) The court may not order the National Security Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the National Security Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(E) In proceedings under subparagraphs (C) and (D), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(F) If the court finds under this subsection that the National Security Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (g) of this section).

(G) If at any time following the filing of a complaint pursuant to this paragraph the National Security Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

(g) Decennial review of exempted operational files

(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) of this section to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that the National Security Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the National Security Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on November 24, 2003, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the National Security Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(July 26, 1947, ch. 343, title VII, § 704, as added Pub. L. 108–136, div. A, title IX, § 922(a), Nov. 24, 2003, 117 Stat. 1570; amended Pub. L. 108–375, div. A, title X, § 1084(j), Oct. 28, 2004, 118 Stat. 2064; Pub. L. 108–458, title I, § 1071(a)(1)(JJ)–(LL), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 109–163, div. A, title IX, § 933(b)(3), Jan. 6, 2006, 119 Stat. 3416.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (f)(2)(E), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2006—Subsec. (c)(3)(H). Pub. L. 109–163 added subpar. (H).

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(JJ), which directed amendment of par. (1) of subsec. (a) by substituting ''Director of National Intelligence'' for ''Director of Central Intelligence'', was executed to text of subsec. (a), which does not contain any pars., to reflect the probable intent of Congress.

Subsec. (f)(2)(D)(i). Pub. L. 108–375 substituted ''responsive records'' for ''responsible records''.

Subsec. (f)(2)(H). Pub. L. 108–458, § 1071(a)(1)(KK), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (g)(1). Pub. L. 108–458, § 1071(a)(1)(LL), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence'' in two places.

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 401 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 401 of this title.

§ 432c. Omitted

Section, July 26, 1947, ch. 343, title VII, § 705, as added Pub. L. 109–163, div. A, title IX, § 933(a)(1), Jan. 6, 2006, 119 Stat. 3413, which provided that the Director of the Defense Intelligence Agency could exempt operational files of the Defense Intelligence Agency from provisions of section 552 of title 5, defined ''operational files'', authorized certain searches of exempted files and of information from exempted files, provided for judicial review of withholding of records and for decennial review of exempted files, ceased to be effective on Dec. 31, 2007, pursuant to subsec. (g) of section.

SUBCHAPTER VI—ACCESS TO CLASSIFIED INFORMATION

§435. Procedures

(a) Not later than 180 days after October 14, 1994, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, travel records, and computers used in the performance of Government duties, as determined by the President, in accordance with section 436 of this title, during the period of access to classified information and for a period of three years thereafter;

(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this subchapter are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

(b)(1) Subsection (a) of this section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed by subsection (a) of this section cannot be invoked in a manner that is consistent with the national security.

(2) Upon the exercise of such responsibility, the agency head shall submit a report to the congressional intelligence committees.

(July 26, 1947, ch. 343, title VIII, §801, as added Pub. L. 103–359, title VIII, §802(a), Oct. 14, 1994, 108 Stat. 3435; amended Pub. L. 106–120, title III, §305(a), Dec. 3, 1999, 113 Stat. 1611; Pub. L. 107–306, title III, §353(b)(2)(B), Nov. 27, 2002, 116 Stat. 2402.)

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate''.

1999—Subsec. (a)(3). Pub. L. 106–120 substituted ''travel records, and computers used in the performance of Government duties'' for ''and travel records''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–120, title III, §305(c), Dec. 3, 1999, 113 Stat. 1612, provided that: ''The President shall modify the procedures required by section 801(a)(3) of the National Security Act of 1947 [50 U.S.C. 435(a)(3)] to take into account the amendment to that section made by subsection (a) of this section not later than 90 days after the date of the enactment of this Act [Dec. 3, 1999].''

EFFECTIVE DATE

Section 802(c) of Pub. L. 103–359 provided that: ''The amendments made by subsections (a) and (b) [enacting this subchapter] shall take effect 180 days after the date of enactment of this Act [Oct. 14, 1994].''

DECLASSIFICATION OF INFORMATION

Pub. L. 106–567, title VII, Dec. 27, 2000, 114 Stat. 2856, as amended by Pub. L. 108–458, title I, §1102, Dec. 17, 2004, 118 Stat. 3699; Pub. L. 110–53, title VI, §602, Aug. 3, 2007, 121 Stat. 335, provided that:

''SEC. 701. SHORT TITLE.

''This title may be cited as the 'Public Interest Declassification Act of 2000'.

''SEC. 702. FINDINGS.

''Congress makes the following findings:

''(1) It is in the national interest to establish an effective, coordinated, and cost-effective means by which records on specific subjects of extraordinary public interest that do not undermine the national security interests of the United States may be collected, retained, reviewed, and disseminated to Congress, policymakers in the executive branch, and the public.

''(2) Ensuring, through such measures, public access to information that does not require continued protection to maintain the national security interests of the United States is a key to striking the balance between secrecy essential to national security and the openness that is central to the proper functioning of the political institutions of the United States.

''SEC. 703. PUBLIC INTEREST DECLASSIFICATION BOARD.

''(a) ESTABLISHMENT.—(1) There is established within the executive branch of the United States a board to be known as the 'Public Interest Declassification Board' (in this title referred to as the 'Board').

''(2) The Board shall report directly to the President or, upon designation by the President, the Vice President, the Attorney General, or other designee of the President. The other designee of the President under this paragraph may not be an agency head or official

authorized to classify information under Executive Order 12958 [formerly set out below], or any successor order.

''(b) PURPOSES.—The purposes of the Board are as follows:

''(1) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on the systematic, thorough, coordinated, and comprehensive identification, collection, review for declassification, and release to Congress, interested agencies, and the public of declassified records and materials (including donated historical materials) that are of archival value, including records and materials of extraordinary public interest.

''(2) To promote the fullest possible public access to a thorough, accurate, and reliable documentary record of significant United States national security decisions and significant United States national security activities in order to—

''(A) support the oversight and legislative functions of Congress;

''(B) support the policymaking role of the executive branch;

''(C) respond to the interest of the public in national security matters; and

''(D) promote reliable historical analysis and new avenues of historical study in national security matters.

''(3) To provide recommendations to the President for the identification, collection, and review for declassification of information of extraordinary public interest that does not undermine the national security of the United States, to be undertaken in accordance with a declassification program that has been established or may be established by the President by Executive order.

''(4) To advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and such other executive branch officials as the Board considers appropriate on policies deriving from the issuance by the President of Executive orders regarding the classification and declassification of national security information.

''(5) To review and make recommendations to the President in a timely manner with respect to any congressional request, made by the committee of jurisdiction, to declassify certain records or to reconsider a declination to declassify specific records.

''(c) MEMBERSHIP.—(1) The Board shall be composed of nine individuals appointed from among citizens of the United States who are preeminent in the fields of history, national security, foreign policy, intelligence policy, social science, law, or archives, including individuals who have served in Congress or otherwise in the Federal Government or have otherwise engaged in research, scholarship, or publication in such fields on matters relating to the national security of the United States, of whom—

''(A) five shall be appointed by the President;

''(B) one shall be appointed by the Speaker of the House of Representatives;

''(C) one shall be appointed by the majority leader of the Senate;

''(D) one shall be appointed by the minority leader of the Senate; and

''(E) one shall be appointed by the minority leader of the House of Representatives.

''(2)(A) Of the members initially appointed to the Board by the President—

''(i) three shall be appointed for a term of 4 years;

''(ii) one shall be appointed for a term of 3 years; and

''(iii) one shall be appointed for a term of 2 years.

''(B) The members initially appointed to the Board by the Speaker of the House of Representatives or by the majority leader of the Senate shall be appointed for a term of 3 years.

''(C) The members initially appointed to the Board by the minority leader of the House of Representatives or the Senate shall be appointed for a term of 2 years.

''(D) Any subsequent appointment to the Board shall be for a term of 3 years.

''(3) A vacancy in the Board shall be filled in the same manner as the original appointment. A member of the Board appointed to fill a vacancy before the expiration of a term shall serve for the remainder of the term.

''(4) A member of the Board may be appointed to a new term on the Board upon the expiration of the member's term on the Board, except that no member may serve more than three full terms on the Board.

''(d) CHAIRPERSON; EXECUTIVE SECRETARY.—(1)(A) The President shall designate one of the members of the Board as the Chairperson of the Board.

''(B) The term of service as Chairperson of the Board shall be 2 years.

''(C) A member serving as Chairperson of the Board may be redesignated as Chairperson of the Board upon the expiration of the member's term as Chairperson of the Board, except that no member shall serve as Chairperson of the Board for more than 6 years.

''(2) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Board.

''(e) MEETINGS.—The Board shall meet as needed to accomplish its mission, consistent with the availability of funds. A majority of the members of the Board shall constitute a quorum.

''(f) STAFF.—Any employee of the Federal Government may be detailed to the Board, with the agreement of and without reimbursement to the detailing agency, and such detail shall be without interruption or loss of civil, military, or foreign service status or privilege.

''(g) SECURITY.—(1) The members and staff of the Board shall, as a condition of appointment to or employment with the Board, hold appropriate security clearances for access to the classified records and materials to be reviewed by the Board or its staff, and shall follow the guidance and practices on security under applicable Executive orders and Presidential or agency directives.

''(2) The head of an agency shall, as a condition of granting access to a member of the Board, the Executive Secretary of the Board, or a member of the staff of the Board to classified records or materials of the agency under this title, require the member, the Executive Secretary, or the member of the staff, as the case may be, to—

''(A) execute an agreement regarding the security of such records or materials that is approved by the head of the agency; and

''(B) hold an appropriate security clearance granted or recognized under the standard procedures and eligibility criteria of the agency, including any special access approval required for access to such records or materials.

''(3) The members of the Board, the Executive Secretary of the Board, and the members of the staff of the Board may not use any information acquired in the course of their official activities on the Board for nonofficial purposes.

''(4) For purposes of any law or regulation governing access to classified information that pertains to the national security of the United States, and subject to any limitations on access arising under section 706(b), and to facilitate the advisory functions of the Board under this title, a member of the Board seeking access to a record or material under this title shall be deemed for purposes of this subsection to have a need to know the contents of the record or material.

''(h) COMPENSATION.—(1) Each member of the Board shall receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for positions at ES–1 of the Senior Executive Service under section 5382 of title 5, United States Code, for each day such member is engaged in the actual performance of duties of the Board.

''(2) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the duties of the Board.

''(i) GUIDANCE; ANNUAL BUDGET.—(1) On behalf of the President, the Assistant to the President for National Security Affairs shall provide guidance on policy to the Board.

''(2) The Executive Secretary of the Board, under the direction of the Chairperson of the Board and the Board, and acting in consultation with the Archivist of the United States, the Assistant to the President for National Security Affairs, and the Director of the Office of Management and Budget, shall prepare the annual budget of the Board.

''(j) SUPPORT.—The Information Security Oversight Office may support the activities of the Board under this title. Such support shall be provided on a reimbursable basis.

''(k) PUBLIC AVAILABILITY OF RECORDS AND REPORTS.—(1) The Board shall make available for public inspection records of its proceedings and reports prepared in the course of its activities under this title to the extent such records and reports are not classified and would not be exempt from release under the provisions of section 552 of title 5, United States Code.

''(2) In making records and reports available under paragraph (1), the Board shall coordinate the release of such records and reports with appropriate officials from agencies with expertise in classified information in order to ensure that such records and reports do not inadvertently contain classified information.

''(*l*) APPLICABILITY OF CERTAIN ADMINISTRATIVE LAWS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Board under this title. However, the records of the Board shall be governed by the provisions of the Federal Records Act of 1950 [see References in Text note under section 450j of Title 25, Indians].

''SEC. 704. IDENTIFICATION, COLLECTION, AND REVIEW FOR DECLASSIFICATION OF INFORMATION OF ARCHIVAL VALUE OR EXTRAORDINARY PUBLIC INTEREST.

''(a) BRIEFINGS ON AGENCY DECLASSIFICATION PROGRAMS.—(1) As requested by the Board, or by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, the head of any agency with the authority under an Executive order to classify information shall provide to the Board, the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, on an annual basis, a summary briefing and report on such agency's progress and plans in the declassification of national security information. Such briefing shall cover the declassification goals set by statute, regulation, or policy, the agency's progress with respect to such goals, and the agency's planned goals and priorities for its declassification activities over the next 2 fiscal years. Agency briefings and reports shall give particular attention to progress on the declassification of records and materials that are of archival value or extraordinary public interest to the people of the United States.

''(2)(A) The annual briefing and report under paragraph (1) for agencies within the Department of Defense, including the military departments and the elements of the intelligence community, shall be provided on a consolidated basis.

''(B) In this paragraph, the term 'elements of the intelligence community' means the elements of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(b) RECOMMENDATIONS ON AGENCY DECLASSIFICATION PROGRAMS.—(1) Upon reviewing and discussing declassification plans and progress with an agency, the Board shall provide to the head of the agency the written recommendations of the Board as to how the agency's declassification program could be improved. A copy of each recommendation shall also be submitted to the Assistant to the President for National Security Affairs and the Director of the Office of Management and Budget.

''(2) Consistent with the provisions of section 703(k), the Board's recommendations to the head of an agency under paragraph (1) shall become public 60 days after such recommendations are sent to the head of the agency under that paragraph.

''(c) RECOMMENDATIONS ON SPECIAL SEARCHES FOR RECORDS OF EXTRAORDINARY PUBLIC INTEREST.—(1) The Board shall also make recommendations to the President regarding proposed initiatives to identify, collect, and review for declassification classified records and materials of extraordinary public interest.

''(2) In making recommendations under paragraph (1), the Board shall consider the following:

''(A) The opinions and requests of Members of Congress, including opinions and requests expressed or embodied in letters or legislative proposals, and also including specific requests for the declassification of certain records or for the reconsideration of declinations to declassify specific records.

''(B) The opinions and requests of the National Security Council, the Director of National Intelligence, and the heads of other agencies.

''(C) The opinions of United States citizens.

''(D) The opinions of members of the Board.

''(E) The impact of special searches on systematic and all other on-going declassification programs.

''(F) The costs (including budgetary costs) and the impact that complying with the recommendations would have on agency budgets, programs, and operations.

''(G) The benefits of the recommendations.

''(H) The impact of compliance with the recommendations on the national security of the United States.

''(d) PRESIDENT'S DECLASSIFICATION PRIORITIES.—(1) Concurrent with the submission to Congress of the budget of the President each fiscal year under section 1105 of title 31, United States Code, the Director of the Office of Management and Budget shall publish a description of the President's declassification program and priorities, together with a listing of the funds requested to implement that program.

''(2) Nothing in this title shall be construed to substitute or supersede, or establish a funding process for, any declassification program that has been established or may be established by the President by Executive order.

''(e) DECLASSIFICATION REVIEWS.—(1) IN GENERAL.—If requested by the President, the Board shall review in a timely manner certain records or declinations to declassify specific records, the declassification of which has been the subject of specific congressional request described in section 703(b)(5).

''(2) AUTHORITY OF BOARD.—Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

''(3) REPORTING.—Any recommendations submitted to the President by the Board under section 703(b)(5),[sic] shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.

''SEC. 705. PROTECTION OF NATIONAL SECURITY INFORMATION AND OTHER INFORMATION.

''(a) IN GENERAL.—Nothing in this title shall be construed to limit the authority of the head of an agency to classify information or to continue the classification of information previously classified by that agency.

''(b) SPECIAL ACCESS PROGRAMS.—Nothing in this title shall be construed to limit the authority of the head of an agency to grant or deny access to a special access program.

''(c) AUTHORITIES OF DIRECTOR OF NATIONAL INTELLIGENCE.—Nothing in this title shall be construed to limit the authorities of the Director of National Intelligence as the head of the intelligence community, including the Director's responsibility to protect intelligence sources and methods from unauthorized disclosure as required by section 103(c)(6) of the National Security Act of 1947 ([former] 50 U.S.C. 403–3(c)(6)).

''(d) EXEMPTIONS TO RELEASE OF INFORMATION.—Nothing in this title shall be construed to limit any exemption or exception to the release to the public under this title of information that is protected under subsection (b) of section 552 of title 5, United States Code (commonly referred to as the 'Freedom of Information Act'), or section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act').

''(e) WITHHOLDING INFORMATION FROM CONGRESS.—Nothing in this title shall be construed to authorize the withholding of information from Congress.

''SEC. 706. STANDARDS AND PROCEDURES.

''(a) LIAISON.—(1) The head of each agency with the authority under an Executive order to classify information and the head of each Federal Presidential library shall designate an employee of such agency or library to act as liaison to the Board for purposes of this title.

''(2) The Board may establish liaison and otherwise consult with such other historical and advisory committees as the Board considers appropriate for purposes of this title.

''(b) LIMITATIONS ON ACCESS.—(1)(A) Except as provided in paragraph (2), if the head of an agency or the head of a Federal Presidential library determines it necessary to deny or restrict access of the Board, or of the agency or library liaison to the Board, to information contained in a record or material, in whole or in part, the head of the agency or the head of the library shall promptly notify the Board in writing of such determination.

''(B) Each notice to the Board under subparagraph (A) shall include a description of the nature of the records or materials, and a justification for the determination, covered by such notice.

''(2) In the case of a determination referred to in paragraph (1) with respect to a special access program created by the Secretary of Defense, the Director of National Intelligence, or the head of any other agency, the notification of denial of access under paragraph (1), including a description of the nature of the Board's request for access, shall be submitted to the Assistant to the President for National Security Affairs rather than to the Board.

''(c) DISCRETION TO DISCLOSE.—At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the public's interest in the disclosure of records or materials of the agency covered by such review, and still properly classified, outweighs the Government's need to protect such records or materials, and may release such records or materials in accordance with the provisions of Executive Order No. 12958 [set out below] or any successor order to such Executive order.

''(d) DISCRETION TO PROTECT.—At the conclusion of a declassification review, the head of an agency may, in the discretion of the head of the agency, determine that the interest of the agency in the protection of records or materials of the agency covered by such review, and still properly classified, outweighs the public's need for access to such records or materials, and may deny release of such records or materials in accordance with the provisions of Executive Order No. 12958 or any successor order to such Executive order.

''(e) REPORTS.—(1)(A) Except as provided in paragraph (2), the Board shall annually submit to the appropriate congressional committees a report on the activities of the Board under this title, including summary information regarding any denials to the Board by the head of an agency or the head of a Federal Presidential library of access to records or materials under this title.

''(B) In this paragraph, the term 'appropriate congressional committees' means the Select Committee on Intelligence and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives.

''(2) Notwithstanding paragraph (1), notice that the Board has been denied access to records and materials, and a justification for the determination in support of the denial, shall be submitted by the agency denying the access as follows:

''(A) In the case of the denial of access to a special access program created by the Secretary of Defense, to the Committees on Armed Services and Appropriations of the Senate and to the Committees on Armed Services and Appropriations of the House of Representatives.

''(B) In the case of the denial of access to a special access program created by the Director of National Intelligence, or by the head of any other agency (including the Department of Defense) if the special access program pertains to intelligence activities, or of access to any information and materials relating to intelligence sources and methods, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

''(C) In the case of the denial of access to a special access program created by the Secretary of Energy or the Administrator for Nuclear Security, to the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate and to the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

''(f) NOTIFICATION OF REVIEW.—In response to a specific congressional request for declassification review described in section 703(b)(5), the Board shall advise the originators of the request in a timely manner whether the Board intends to conduct such review.

''SEC. 707. JUDICIAL REVIEW.

''Nothing in this title limits the protection afforded to any information under any other provision of law. This title is not intended and may not be construed to create any right or benefit, substantive or procedural, enforceable against the United States, its agencies, its officers, or its employees. This title does not modify in any way the substantive criteria or procedures for the classification of information, nor does this title create any right or benefit subject to judicial review.

''SEC. 708. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to carry out the provisions of this title amounts as follows:

''(1) For fiscal year 2001, $650,000.

''(2) For each fiscal year after fiscal year 2001, such sums as may be necessary for such fiscal year.

''(b) FUNDING REQUESTS.—The President shall include in the budget submitted to Congress for each fiscal year under section 1105 of title 31, United States Code, a request for amounts for the activities of the Board under this title during such fiscal year.

''SEC. 709. DEFINITIONS.

''In this title:

''(1) AGENCY.—(A) Except as provided in subparagraph (B), the term 'agency' means the following:

''(i) An Executive agency, as that term is defined in section 105 of title 5, United States Code.

''(ii) A military department, as that term is defined in section 102 of such title.

''(iii) Any other entity in the executive branch that comes into the possession of classified information.

''(B) The term does not include the Board.

''(2) CLASSIFIED MATERIAL OR RECORD.—The terms 'classified material' and 'classified record' include any correspondence, memorandum, book, plan, map,

drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, videotape, machine readable records, and other documentary material, regardless of physical form or characteristics, that has been determined pursuant to Executive order to require protection against unauthorized disclosure in the interests of the national security of the United States.

''(3) DECLASSIFICATION.—The term 'declassification' means the process by which records or materials that have been classified are determined no longer to require protection from unauthorized disclosure to protect the national security of the United States.

''(4) DONATED HISTORICAL MATERIAL.—The term 'donated historical material' means collections of personal papers donated or given to a Federal Presidential library or other archival repository under a deed of gift or otherwise.

''(5) FEDERAL PRESIDENTIAL LIBRARY.—The term 'Federal Presidential library' means a library operated and maintained by the United States Government through the National Archives and Records Administration under the applicable provisions of the Federal Records Act of 1950 [see References in Text note under section 450j of Title 25, Indians].

''(6) NATIONAL SECURITY.—The term 'national security' means the national defense or foreign relations of the United States.

''(7) RECORDS OR MATERIALS OF EXTRAORDINARY PUBLIC INTEREST.—The term 'records or materials of extraordinary public interest' means records or materials that—

''(A) demonstrate and record the national security policies, actions, and decisions of the United States, including—

''(i) policies, events, actions, and decisions which led to significant national security outcomes; and

''(ii) the development and evolution of significant United States national security policies, actions, and decisions;

''(B) will provide a significantly different perspective in general from records and materials publicly available in other historical sources; and

''(C) would need to be addressed through ad hoc record searches outside any systematic declassification program established under Executive order.

''(8) RECORDS OF ARCHIVAL VALUE.—The term 'records of archival value' means records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government.

''SEC. 710. EFFECTIVE DATE; SUNSET.

''(a) EFFECTIVE DATE.—This title shall take effect on the date that is 120 days after the date of the enactment of this Act [Dec. 27, 2000].

''(b) SUNSET.—The provisions of this title shall expire on December 31, 2012.''

COMPILATION AND ORGANIZATION OF PREVIOUSLY DECLASSIFIED RECORDS

Pub. L. 106–398, §1 [[div. A], title X, §1075(c), (d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, provided that:

''(c) COMPILATION AND ORGANIZATION OF RECORDS.—The Department of Defense may not be required, when conducting a special search, to compile or organize records that have already been declassified and placed into the public domain.

''(d) SPECIAL SEARCHES.—For the purpose of this section, the term 'special search' means the response of the Department of Defense to any of the following:

''(1) A statutory requirement to conduct a declassification review on a specified set of agency records.

''(2) An Executive order to conduct a declassification review on a specified set of agency records.

''(3) An order from the President or an official with delegated authority from the President to conduct a declassification review on a specified set of agency records.''

CERTIFICATION AND REPORT RELATED TO AUTOMATIC DECLASSIFICATION OF DEPARTMENT OF DEFENSE RECORDS

Pub. L. 106–65, div. A, title X, §1041(c), (d), Oct. 5, 1999, 113 Stat. 758, provided that:

''(c) CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS.—No records of the Department of Defense that have not been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Defense certifies to Congress that such declassification would not harm the national security.

''(d) REPORT ON AUTOMATIC DECLASSIFICATION OF DEPARTMENT OF DEFENSE RECORDS.—Not later than February 1, 2001, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report on the efforts of the Department of Defense relating to the declassification of classified records under the control of the Department of Defense. Such report shall include the following:

''(1) An assessment of whether the Department will be able to review all relevant records for declassification before any date established for automatic declassification.

''(2) An estimate of the cost of reviewing records to meet any requirement to review all relevant records for declassification by a date established for automatic declassification.

''(3) An estimate of the number of records, if any, that the Department will be unable to review for declassification before any such date and the affect [sic] on national security of the automatic declassification of those records.

''(4) An estimate of the length of time by which any such date would need to be extended to avoid the automatic declassification of records that have not yet been reviewed as of such date.''

SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA

Pub. L. 106–65, div. C, title XXXI, §3149, Oct. 5, 1999, 113 Stat. 938, which was formerly set out as a note under this section, was renumbered section 4523 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(h)(13)(A)–(C), Nov. 24, 2003, 117 Stat. 1775, and is classified to section 2673 of this title.

IDENTIFICATION IN BUDGET MATERIALS OF AMOUNTS FOR DECLASSIFICATION ACTIVITIES AND LIMITATION ON EXPENDITURES FOR SUCH ACTIVITIES

Pub. L. 106–65, div. C, title XXXI, §3173, Oct. 5, 1999, 113 Stat. 949, which was formerly set out as a note under this section, was renumbered section 4525 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(h)(15)(A)–(C), Nov. 24, 2003, 117 Stat. 1775, and is classified to section 2675 of this title.

PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA

Pub. L. 105–261, div. C, title XXXI, §3161, Oct. 17, 1998, 112 Stat. 2259, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [div. C, title XXXI, §3193(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–480, which was formerly set out as a note under this section, was renumbered section 4522 of Pub. L. 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, by Pub. L. 108–136, div. C, title XXXI, §3141(h)(12)(A)–(C), Nov. 24, 2003, 117 Stat. 1774, and is classified to section 2672 of this title.

SECRECY AGREEMENTS USED IN INTELLIGENCE ACTIVITIES

Pub. L. 104–93, title III, §306, Jan. 6, 1996, 109 Stat. 966, provided that: ''Notwithstanding any other provision of

law not specifically referencing this section, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum—

''(1) require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government; and

''(2) provide that the form or agreement does not bar—

''(A) disclosures to Congress; or

''(B) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.''

VOLUNTARY SERVICE PROGRAM

Pub. L. 104–93, title IV, § 402, Jan. 6, 1996, 109 Stat. 969, authorized the Director of Central Intelligence to establish and maintain a program from fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 annuitants who served without compensation as volunteers in aid of the review for declassification or downgrading of classified information by the Central Intelligence Agency under applicable Executive orders governing the classification and declassification of national security information and Pub. L. 102–526 (44 U.S.C. 2107 note).

COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Pub. L. 103–236, title IX, Apr. 30, 1994, 108 Stat. 525, provided that:

''SEC. 901. SHORT TITLE.

''This title may be cited as the 'Protection and Reduction of Government Secrecy Act'.

''SEC. 902. FINDINGS.

''The Congress makes the following findings:

''(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decisionmaking.

''(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

''(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States, and the selective and unauthorized public disclosure of classified information.

''(4) It has been estimated that private businesses spend more than $14 billion each year implementing government mandated regulations for protecting classified information.

''(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

''(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that 'more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information'.

''(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

''(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

''SEC. 903. PURPOSE.

''It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

''(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

''(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

''SEC. 904. COMPOSITION OF THE COMMISSION.

''(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the 'Commission').

''(b) COMPOSITION.—The Commission shall be composed of twelve members, as follows:

''(1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

''(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

''(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

''(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

''(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

''(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

''(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

''(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title [Apr. 30, 1994].

''(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

''SEC. 905. FUNCTIONS OF THE COMMISSION.

''The functions of the Commission shall be—

''(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances; and

''(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation.

''SEC. 906. POWERS OF THE COMMISSION.

''(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

''(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

''(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may deem advisable.

''(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

''(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

''(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

''(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

''(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(3) In addition to the assistance set forth in paragraphs (1) and (2), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

''(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

''SEC. 907. STAFF OF THE COMMISSION.

''(a) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

''(b) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''SEC. 908. COMPENSATION AND TRAVEL EXPENSES.

''(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

''(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

''(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

''SEC. 909. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

''The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

''SEC. 910. FINAL REPORT OF COMMISSION; TERMINATION.

''(a) FINAL REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

''(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

''(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.''

REPORTS RELATING TO CERTAIN SPECIAL ACCESS PROGRAMS AND SIMILAR PROGRAMS

Pub. L. 103–160, div. A, title XI, §1152, Nov. 30, 1993, 107 Stat. 1758, as amended by Pub. L. 106–65, div. C, title XXXII, §3294(e)(2), Oct. 5, 1999, 113 Stat. 970, provided that:

''(a) IN GENERAL.—(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress a report on each special access program carried out in the department or agency.

''(2) Each such report shall set forth—

''(A) the total amount requested by the department or agency for special access programs within the budget submitted under section 1105 of title 31, United States Code, for the fiscal year following the fiscal year in which the report is submitted; and

''(B) for each program in such budget that is a special access program—

''(i) a brief description of the program;

''(ii) in the case of a procurement program, a brief discussion of the major milestones established for the program;

''(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

''(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the

budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

''(b) NEWLY DESIGNATED PROGRAMS.—(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress a report that, with respect to each new special access program of that department or agency, provides—

''(A) notice of the designation of the program as a special access program; and

''(B) justification for such designation.

''(2) A report under paragraph (1) with respect to a program shall include—

''(A) the current estimate of the total program cost for the program; and

''(B) an identification, as applicable, of existing programs or technologies that are similar to the technology, or that have a mission similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

''(3) In this subsection, the term 'new special access program' means a special access program that has not previously been covered in a notice and justification under this subsection.

''(c) REVISION IN CLASSIFICATION OF PROGRAMS.—(1) Whenever a change in the classification of a special access program of a covered department or agency is planned to be made or whenever classified information concerning a special access program of a covered department or agency is to be declassified and made public, the head of the department or agency shall submit to Congress a report containing a description of the proposed change or the information to be declassified, the reasons for the proposed change or declassification, and notice of any public announcement planned to be made with respect to the proposed change or declassification.

''(2) Except as provided in paragraph (3), a report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change, declassification, or public announcement is to occur.

''(3) If the head of the department or agency determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change, declassification, or public announcement concerning a special access program of the department or agency, the head of the department or agency may submit the report required by paragraph (1) regarding the proposed change, declassification, or public announcement at any time before the proposed change, declassification, or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

''(d) REVISION OF CRITERIA FOR DESIGNATING PROGRAMS.—Whenever there is a modification or termination of the policy and criteria used for designating a program of a covered department or agency as a special access program, the head of the department or agency shall promptly notify Congress of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

''(e) WAIVER OF REPORTING REQUIREMENT.—(1) The head of a covered department or agency may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the head of the department or agency determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

''(2) If the head of a department or agency exercises the authority provided under paragraph (1), the head of the department or agency shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, to Congress.

''(f) INITIATION OF PROGRAMS.—A special access program may not be initiated by a covered department or agency until—

''(1) the appropriate oversight committees are notified of the program; and

''(2) a period of 30 days elapses after such notification is received.

''(g) DEFINITIONS.—For purposes of this section:

''(1) COVERED DEPARTMENT OR AGENCY.—(A) Except as provided in subparagraph (B), the term 'covered department or agency' means any department or agency of the Federal Government that carries out a special access program.

''(B) Such term does not include—

''(i) the Department of Defense (which is required to submit reports on special access programs under section 119 of title 10, United States Code);

''(ii) the National Nuclear Security Administration (which is required to submit reports on special access programs under section 3236 of the National Nuclear Security Administration Act [50 U.S.C. 2426]); or

''(iii) an agency in the Intelligence Community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a)).

''(2) SPECIAL ACCESS PROGRAM.—The term 'special access program' means any program that, under the authority of Executive Order 12356 [formerly set out below] (or any successor Executive order), is established by the head of a department or agency whom the President has designated in the Federal Register as an original 'secret' or 'top secret' classification authority that imposes 'need-to-know' controls or access controls beyond those controls normally required (by regulations applicable to such department or agency) for access to information classified as 'confidential', 'secret', or 'top secret'.''

DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF COLD WAR, KOREAN CONFLICT, AND VIETNAM ERA

Pub. L. 102–190, div. A, title X, § 1082, Dec. 5, 1991, 105 Stat. 1480, as amended by Pub. L. 103–337, div. A, title X, § 1036, Oct. 5, 1994, 108 Stat. 2841; Pub. L. 104–106, div. A, title X, § 1085, Feb. 10, 1996, 110 Stat. 457, provided that:

''(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

''(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

''(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

''(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

''(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

''(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

''(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

''(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family members of that person deter-

mined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

''(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located by the Secretary of Defense—

''(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

''(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs.

''(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

''(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

''(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than January 2, 1996. Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

''(2) Whenever a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

''(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity, then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

''(2) The term 'Cold War' means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

''(3) The term 'official custodian' means—

''(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

''(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.''

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

Pub. L. 100–453, title IV, §404, Sept. 29, 1988, 102 Stat. 1908, provided that:

''(a) This section is enacted to ensure that current disclosure policy is incorporated into law.

''(b) Except as provided in subsection (c), the head of each department or agency—

''(1) with respect to which funds are authorized under this Act [see Tables for classification], and

''(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict,

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

''(c) Subsection (b) does not apply with respect to—

''(1) information that would reveal or compromise sources and methods of intelligence collection; or

''(2) specific information that previously has been made available to the next-of-kin.

''(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.''

EXECUTIVE ORDER NO. 10501

Ex. Ord. No. 10501, Nov. 5, 1953, 18 F.R. 7049, as amended by Ex. Ord. No. 10816, May 7, 1959, 24 F.R. 3777; Ex. Ord. No. 10901, Jan. 9, 1961, 26 F.R. 217; Ex. Ord. No. 10964, Sept. 20, 1961, 26 F.R. 8932; Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439; Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EX. ORD. NO. 10865. SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended by Ex. Ord. No. 10909, Jan. 17, 1961, 26 F.R. 508; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 12829, §203(g), Jan. 6, 1993, 58 F.R. 3479; Ex. Ord. No. 13284, §15, Jan. 23, 2003, 68 F.R. 4076, provided:

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interest of individuals affected thereby and provide maximum possible safeguards to protect such interests:

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. When used in this order, the term ''head of a department'' means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Secretary of Homeland Security, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term ''head of a department'' also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829 [set out below].

SEC. 2. An authorization for access to classified information pursuant to Executive Order No. 12829 [set out below] may be granted by the head of a department or his designee, including but not limited to, those offi-

cials named in section 8 of this order, to an individual, hereinafter termed an ''applicant'', for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SEC. 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked pursuant to Executive Order No. 12829 [set out below] by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee including, but not limited to, those officials named in section 8 of this order for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

SEC. 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 6. The head of a department of the United States or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SEC. 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SEC. 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the the [sic] deputy of that department, or the principal assistant to the head of that department, as the case may be.

SEC. 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers

of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

MODIFICATION OF EXECUTIVE ORDER NO. 10865

Ex. Ord. No. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out under section 7151 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 10985

Ex. Ord. No. 10985, Jan. 12, 1962, 27 F.R. 439, which amended Executive Order No. 10501, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EXECUTIVE ORDER NO. 11097

Ex. Ord. No. 11097, Feb. 28, 1963, 28 F.R. 2225, which amended Executive Order No. 10501, which related to safeguarding official information, was superseded by Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, formerly set out below.

EXECUTIVE ORDER NO. 11652

Ex. Ord. No. 11652, Mar. 8, 1972, 37 F.R. 5209, as amended by Ex. Ord. No. 11714, Apr. 24, 1973, 38 F.R. 10245; Ex. Ord. No. 11862, June 11, 1975, 40 F.R. 25197; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, which related to the classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, formerly set out below.

EX. ORD. NO. 11932. CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL OBTAINED FROM ADVISORY BODIES CREATED TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Ex. Ord. No. 11932, Aug. 4, 1976, 41 F.R. 32691, provided:

The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency. This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the International Energy Agency. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies. I have consulted with the Secretary of State, the Attorney General and the Administrator of the Federal Energy Administration concerning the handling and safeguarding of information and material in the possession of the United States which has been obtained pursuant to the program, and I find that some of such information and material requires protection as provided in Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above].

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order No. 11652 of March 8, 1972, as amended [formerly set out above]. The Secretary of State shall have the responsibility for the classification, declassification and safeguarding of information and material in the possession of the United States Government which has been obtained pursuant to:

(a) Section 252(c)(3), (d)(2), or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871; 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or

(b) The Voluntary Agreement and Program relating to the International Energy Program (40 F.R. 16041, April 8, 1975), or

(c) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.] after the date of this Order.

SEC. 2. Information or material classified pursuant to Section 1 of this Order may be exempted from the General Declassification Schedule established by Section 5 of Executive Order No. 11652 [formerly set out above] if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be exempted under Section 5(B) of such Order.

SEC. 3. (a) Within 60 days of the date of this Order, the Secretary of State shall promulgate regulations which implement his responsibilities under this Order.

(b) The directives issued under Section 6 of Executive Order No. 11652 [formerly set out above] shall not apply to information and material classified under this Order. However, the regulations promulgated by the Secretary of State shall:

(1) conform, to the extent practicable, to the policies set forth in Section 6 of Executive Order No. 11652 [formerly set out above], and

(2) provide that he may take such measures as he deems necessary and appropriate to ensure the confidentiality of any information and material classified under this Order that may remain in the custody or control of any person outside the United States Government.

GERALD R. FORD.

EXECUTIVE ORDER NO. 12065

Ex. Ord. No. 12065, June 28, 1978, 43 F.R. 28949, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, which related to classification and declassification of national security information and material, was revoked by Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, formerly set out below.

EXECUTIVE ORDER NO. 12356

Ex. Ord. No. 12356, Apr. 2, 1982, 47 F.R. 14874, 15557, which prescribed a uniform system for classifying, declassifying, and safeguarding national security information, was revoked by Ex. Ord. No. 12958, §6.1(d), Apr. 17, 1995, 60 F.R. 19843, formerly set out below.

EX. ORD. NO. 12812. DECLASSIFICATION AND RELEASE OF MATERIALS PERTAINING TO PRISONERS OF WAR AND MISSING IN ACTION

Ex. Ord. No. 12812, July 22, 1992, 57 F.R. 32879, provided:

WHEREAS, the Senate, by S. Res. 324 of July 2, 1992, has asked that I ''expeditiously issue an Executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs;'' and

WHEREAS, indiscriminate release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs; and

WHEREAS, I have concluded that the public interest would be served by the declassification and public release of materials pertaining to Vietnam-era POWs and MIAs as provided below;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356 [formerly set out above].

SEC. 2. All executive departments and agencies shall make publicly available documents, files, and other materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.

SEC. 3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH.

EX. ORD. NO. 12829. NATIONAL INDUSTRIAL SECURITY PROGRAM

Ex. Ord. No. 12829, Jan. 6, 1993, 58 F.R. 3479, as amended by Ex. Ord. No. 12885, Dec. 14, 1993, 58 F.R. 65863, provided:

This order establishes a National Industrial Security Program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. To promote our national interests, the United States Government issues contracts, licenses, and grants to nongovernment organizations. When these arrangements require access to classified information, the national security requires that this information be safeguarded in a manner equivalent to its protection within the executive branch of Government. The national security also requires that our industrial security program promote the economic and technological interests of the United States. Redundant, overlapping, or unnecessary requirements impede those interests. Therefore, the National Industrial Security Program shall serve as a single, integrated, cohesive industrial security program to protect classified information and to preserve our Nation's economic and technological interests.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2286) [42 U.S.C. 2011 *et seq.*], the National Security Act of 1947, as amended (codified as amended in scattered sections of the United States Code) [see Short Title note set out under section 401 of this title], and the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2) [5 U.S.C. App.], it is hereby ordered as follows:

PART 1. ESTABLISHMENT AND POLICY

SECTION 101. *Establishment*. (a) There is established a National Industrial Security Program. The purpose of this program is to safeguard classified information that may be released or has been released to current, prospective, or former contractors, licensees, or grantees of United States agencies. For the purposes of this order, the terms ''contractor, licensee, or grantee'' means current, prospective, or former contractors, licensees, or grantees of United States agencies. The National Industrial Security Program shall be applicable to all executive branch departments and agencies.

(b) The National Industrial Security Program shall provide for the protection of information classified pursuant to Executive Order No. 12356 of April 2, 1982 [formerly set out above], or its successor, and the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 *et seq.*].

(c) For the purposes of this order, the term ''contractor'' does not include individuals engaged under personal services contracts.

SEC. 102. *Policy Direction*. (a) The National Security Council shall provide overall policy direction for the National Industrial Security Program.

(b) The Director of the Information Security Oversight Office, established under Executive Order No. 12356 of April 2, 1982 [formerly set out above], shall be responsible for implementing and monitoring the National Industrial Security Program and shall:

(1) develop, in consultation with the agencies, and promulgate subject to the approval of the National Security Council, directives for the implementation of this order, which shall be binding on the agencies;

(2) oversee agency, contractor, licensee, and grantee actions to ensure compliance with this order and implementing directives;

(3) review all agency implementing regulations, internal rules, or guidelines. The Director shall require any regulation, rule, or guideline to be changed if it is not consistent with this order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation, rule, or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority, pursuant to terms of applicable contracts, licenses, grants, or regulations, to conduct on-site reviews of the implementation of the National Industrial Security Program by each agency, contractor, licensee, and grantee that has access to or stores classified information and to require of each agency, contractor, licensee, and grantee those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific classified information, or other forms of cooperation, would pose an exceptional national security risk, the affected agency head or the senior official designated under section 203(a) of this order may request the National Security Council to deny access to the Director. The Director shall not have access pending a prompt decision by the National Security Council;

(5) report any violations of this order or its implementing directives to the head of the agency or to the senior official designated under section 203(a) of this order so that corrective action, if appropriate, may be taken. Any such report pertaining to the implementation of the National Industrial Security Program by a contractor, licensee, or grantee shall be directed to the agency that is exercising operational oversight over the contractor, licensee, or grantee under section 202 of this order;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the National Industrial Security Program;

(7) consider, in consultation with the advisory committee established by this order, affected agencies, contractors, licensees, and grantees, and recommend to the President through the National Security Council changes to this order; and

(8) report at least annually to the President through the National Security Council on the implementation of the National Industrial Security Program.

(c) Nothing in this order shall be construed to supersede the authority of the Secretary of Energy or the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 *et seq.*], or the authority of the Director of Central Intelligence under the National Security Act of 1947, as amended [see Short Title note set out under section 401 of this title], or Executive Order No. 12333 of December 8, 1981 [50 U.S.C. 401 note].

SEC. 103. *National Industrial Security Program Policy Advisory Committee*. (a) *Establishment*. There is established the National Industrial Security Program Policy Advisory Committee (''Committee''). The Director of the Information Security Oversight Office shall serve as Chairman of the Committee and appoint the members of the Committee. The members of the Committee shall be the representatives of those departments and agencies most affected by the National Industrial Security Program and nongovernment representatives of contractors, licensees, or grantees involved with classified contracts, licenses, or grants, as determined by the Chairman.

(b) *Functions*. (1) The Committee members shall advise the Chairman of the Committee on all matters concerning the policies of the National Industrial Security Program, including recommended changes to those policies as reflected in this order, its implementing directives, or the operating manual established under this order, and serve as a forum to discuss policy issues in dispute.

(2) The Committee shall meet at the request of the Chairman, but at least twice during the calendar year.

(c) *Administration*. (1) Members of the Committee shall serve without compensation for their work on the Committee. However, nongovernment members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(2) To the extent permitted by law and subject to the availability of funds, the Administrator of General Services shall provide the Committee with administrative services, facilities, staff, and other support services necessary for the performance of its functions.

(d) *General*. Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended [5 U.S.C. App.], except that of reporting to the Congress, which are applicable to the Committee, shall be performed by the Administrator of General Services in accordance with the guidelines and procedures established by the General Services Administration.

PART 2. OPERATIONS

SEC. 201. *National Industrial Security Program Operating Manual*. (a) The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence, shall issue and maintain a National Industrial Security Program Operating Manual (''Manual''). The Secretary of Energy and the Nuclear Regulatory Commission shall prescribe and issue that portion of the Manual that pertains to information classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 *et seq.*]. The Director of Central Intelligence shall prescribe and issue that portion of the Manual that pertains to intelligence sources and methods, including Sensitive Compartmented Information.

(b) The Manual shall prescribe specific requirements, restrictions, and other safeguards that are necessary to preclude unauthorized disclosure and control authorized disclosure of classified information to contractors, licensees, or grantees. The Manual shall apply to the release of classified information during all phases of the contracting process including bidding, negotiation, award, performance, and termination of contracts, the licensing process, or the grant process, with or under the control of departments or agencies.

(c) The Manual shall also prescribe requirements, restrictions, and other safeguards that are necessary to protect special classes of classified information, including Restricted Data, Formerly Restricted Data, intelligence sources and methods information, Sensitive Compartmented Information, and Special Access Program information.

(d) In establishing particular requirements, restrictions, and other safeguards within the Manual, the Secretary of Defense, the Secretary of Energy, the Nuclear Regulatory Commission, and the Director of Central Intelligence shall take into account these factors: (i) the damage to the national security that reasonably could be expected to result from an unauthorized disclosure; (ii) the existing or anticipated threat to the disclosure of information; and (iii) the short- and long-term costs of the requirements, restrictions, and other safeguards.

(e) To the extent that is practicable and reasonable, the requirements, restrictions, and safeguards that the Manual establishes for the protection of classified information by contractors, licensees, and grantees shall be consistent with the requirements, restrictions, and safeguards that directives implementing Executive Order No. 12356 of April 2, 1982 [formerly set out above], or the Atomic Energy Act of 1954, as amended, establish for the protection of classified information by agencies. Upon request by the Chairman of the Committee, the Secretary of Defense shall provide an explanation and justification for any requirement, restriction, or safeguard that results in a standard for the protection of classified information by contractors, licensees, and grantees that differs from the standard that applies to agencies.

(f) The Manual shall be issued to correspond as closely as possible to pertinent decisions of the Secretary of Defense and the Director of Central Intelligence made pursuant to the recommendations of the Joint Security Review Commission and to revisions to the security classification system that result from Presidential Review Directive 29, but in any event no later than June 30, 1994.

SEC. 202. *Operational Oversight*. (a) The Secretary of Defense shall serve as Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require or will require access to, or who store or will store classified information; and for determining the eligibility for access to classified information of contractors, licensees, and grantees and their respective employees. The heads of agencies shall enter into agreements with the Secretary of Defense that establish the terms of the Secretary's responsibilities on behalf of these agency heads.

(b) The Director of Central Intelligence retains authority over access to intelligence sources and methods, including Sensitive Compartmented Information. The Director of Central Intelligence may inspect and monitcr [sic] contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on the Director's behalf.

(c) The Secretary of Energy and the Nuclear Regulatory Commission retain authority over access to information under their respective programs classified under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 *et seq.*]. The Secretary or the Commission may inspect and monitor contractor, licensee, and grantee programs and facilities that involve access to such information or may enter into written agreements with the Secretary of Defense, as Executive Agent, to inspect and monitor these programs or facilities, in whole or in part, on behalf of the Secretary or the Commission, respectively.

(d) The Executive Agent shall have the authority to issue, after consultation with affected agencies, standard forms or other standardization that will promote the implementation of the National Industrial Security Program.

SEC. 203. *Implementation*. (a) The head of each agency that enters into classified contracts, licenses, or grants shall designate a senior agency official to direct and administer the agency's implementation and compliance with the National Industrial Security Program.

(b) Agency implementing regulations, internal rules, or guidelines shall be consistent with this order, its implementing directives, and the Manual. Agencies shall issue these regulations, rules, or guidelines no later than 180 days from the issuance of the Manual. They may incorporate all or portions of the Manual by reference.

(c) Each agency head or the senior official designated under paragraph (a) above shall take appropriate and prompt corrective action whenever a violation of this order, its implementing directives, or the Manual occurs.

(d) The senior agency official designated under paragraph (a) above shall account each year for the costs within the agency associated with the implementation of the National Industrial Security Program. These costs shall be reported to the Director of the Information Security Oversight Office, who shall include them in the reports to the President prescribed by this order.

(e) The Secretary of Defense, with the concurrence of the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and such other agency heads or officials who may be responsible, shall amend the Federal Acquisition Regulation to be consistent with the implementation of the National Industrial Security Program.

(f) All contracts, licenses, or grants that involve access to classified information and that are advertised or proposed following the issuance of agency regulations, rules, or guidelines described in paragraph (b) above shall comply with the National Industrial Security Program. To the extent that is feasible, economical, and permitted by law, agencies shall amend, modify, or convert preexisting contracts, licenses, or grants, or previously advertised or proposed contracts, licenses, or grants, that involve access to classified information for operation under the National Industrial Security Program. Any direct inspection or monitoring of contractors, licensees, or grantees specified by this order shall be carried out pursuant to the terms of a contract, license, grant, or regulation.

(g) Executive Order No. 10865 of February 20, 1960 [set out above], as amended by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, is hereby amended as follows:

(1) Section 1(a) and (b) are revoked as of the effective date of this order.

(2) Section 1(c) is renumbered as Section 1 and is amended to read as follows:

''SECTION 1. When used in this order, the term 'head of a department' means the Secretary of State, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, the Administrator of the National Aeronautics and Space Administration, and, in section 4, the Attorney General. The term 'head of a department' also means the head of any department or agency, including but not limited to those referenced above with whom the Department of Defense makes an agreement to extend regulations prescribed by the Secretary of Defense concerning authorizations for access to classified information pursuant to Executive Order No. 12829.''

(3) Section 2 is amended by inserting the words ''pursuant to Executive Order No. 12829'' after the word ''information.''

(4) Section 3 is amended by inserting the words ''pursuant to Executive Order No. 12829'' between the words ''revoked'' and ''by'' in the second clause of that section.

(5) Section 6 is amended by striking out the words ''The Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, or his representative, or the head of any other department or agency of the United States with which the Department of Defense makes an agreement under section (1)(b),'' at the beginning of the first sentence, and inserting in their place ''The head of a department of the United States . . . .''

(6) Section 8 is amended by striking out paragraphs (1) through (7) and inserting in their place ''. . . the deputy of that department, or the principal assistant to the head of that department, as the case may be.''

(h) All delegations, rules, regulations, orders, directives, agreements, contracts, licenses, and grants issued under preexisting authorities, including section 1(a) and (b) of Executive Order No. 10865 of February 20, 1960, as amended, by Executive Order No. 10909 of January 17, 1961, and Executive Order No. 11382 of November 27, 1967, shall remain in full force and effect until amended, modified, or terminated pursuant to authority of this order.

(i) This order shall be effective immediately.

EX. ORD. NO. 12937. DECLASSIFICATION OF SELECTED RECORDS WITHIN NATIONAL ARCHIVES OF UNITED STATES

Ex. Ord. No. 12937, Nov. 10, 1994, 59 F.R. 59097, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. The records in the National Archives of the United States referenced in the list accompanying this order are hereby declassified.

SEC. 2. The Archivist of the United States shall take such actions as are necessary to make such records available for public research no later than 30 days from the date of this Order, except to the extent that the head of an affected agency and the Archivist have determined that specific information within such records must be protected from disclosure pursuant to an authorized exemption to the Freedom of Information Act, 5 U.S.C. 552, other than the exemption that pertains to national security information.

SEC. 3. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

Records in the following record groups (''RG'') in the National Archives of the United States shall be declassified. Page numbers are approximate. A complete list of the selected records is available from the Archivist of the United States.

I. All unreviewed World War II and earlier records, including:		
A.	RG 18, Army Air Forces	1,722,400 pp.
B.	RG 65, Federal Bureau of Investigation	362,500 pp.
C.	RG 127, United States Marine Corps	195,000 pp.
D.	RG 216, Office of Censorship	112,500 pp.
E.	RG 226, Office of Strategic Services	415,000 pp.
F.	RG 60, United States Occupation Headquarters	4,422,500 pp.
G.	RG 331, Allied Operational and Occupation Headquarters, World War II (including 350 reels of Allied Force Headquarters)	3,097,500 pp.
H.	RG 332, United States Theaters of War, World War II	1,182,500 pp.
I.	RG 338, Mediterranean Theater of Operations and European Command	9,500,000 pp.
	Subtotal for World War II and earlier	21.0 million pp.
II. Post-1945 Collections (Military and Civil)		
A.	RG 19, Bureau of Ships, Pre-1950 General Correspondence (selected records)	1,732,500 pp.
B.	RG 51, Bureau of the Budget, 52.12 Budget Preparation Branch, 1952–69	142,500 pp.
C.	RG 72, Bureau of Aeronautics (Navy) (selected records)	5,655,000 pp.
D.	RG 166, Foreign Agricultural Service, Narrative Reports, 1955–61	1,272,500 pp.
E.	RG 313, Naval Operating Forces (selected records)	407,500 pp.
F.	RG 319, Office of the Chief of Military History Manuscripts and Background Papers (selected records)	933,000 pp.
G.	RG 337, Headquarters, Army Ground Forces (selected records)	1,269,700 pp.
H.	RG 341, Headquarters, United States Air Force (selected records)	4,870,000 pp.
I.	RG 389, Office of the Provost Marshal General (selected records)	448,000 pp.
J.	RG 391, United States Army Regular Army Mobil Units	240,000 pp.

K.	RG 428, General Records of the Department of the Navy (selected records)	31,250 pp.
L.	RG 472, Army Vietnam Collection (selected records)	5,864,000 pp.
	Subtotal for Other	22.9 million pp.
	TOTAL	43.9 million pp.

EX. ORD. NO. 12951. RELEASE OF IMAGERY ACQUIRED BY SPACE-BASED NATIONAL INTELLIGENCE RECONNAISSANCE SYSTEMS

Ex. Ord. No. 12951, Feb. 22, 1995, 60 F.R. 10789, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to release certain scientifically or environmentally useful imagery acquired by space-based national intelligence reconnaissance systems, consistent with the national security, it is hereby ordered as follows:

SECTION 1. *Public Release of Historical Intelligence Imagery*. Imagery acquired by the space-based national intelligence reconnaissance systems known as the Corona, Argon, and Lanyard missions shall, within 18 months of the date of this order, be declassified and transferred to the National Archives and Records Administration with a copy sent to the United States Geological Survey of the Department of the Interior consistent with procedures approved by the Director of Central Intelligence and the Archivist of the United States. Upon transfer, such imagery shall be deemed declassified and shall be made available to the public.

SEC. 2. *Review for Future Public Release of Intelligence Imagery*. (a) All information that meets the criteria in section 2(b) of this order shall be kept secret in the interests of national defense and foreign policy until deemed otherwise by the Director of Central Intelligence. In consultation with the Secretaries of State and Defense, the Director of Central Intelligence shall establish a comprehensive program for the periodic review of imagery from systems other than the Corona, Argon, and Lanyard missions, with the objective of making available to the public as much imagery as possible consistent with the interests of national defense and foreign policy. For imagery from obsolete broad-area film-return systems other than Corona, Argon, and Lanyard missions, this review shall be completed within 5 years of the date of this order. Review of imagery from any other system that the Director of Central Intelligence deems to be obsolete shall be accomplished according to a timetable established by the Director of Central Intelligence. The Director of Central Intelligence shall report annually to the President on the implementation of this order.

(b) The criteria referred to in section 2(a) of this order consist of the following: imagery acquired by a space-based national intelligence reconnaissance system other than the Corona, Argon, and Lanyard missions.

SEC. 3. *General Provisions*. (a) This order prescribes a comprehensive and exclusive system for the public release of imagery acquired by space-based national intelligence reconnaissance systems. This order is the exclusive Executive order governing the public release of imagery for purposes of section 552(b)(1) of the Freedom of Information Act [5 U.S.C. 552(b)(1)].

(b) Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 4. *Definition*. As used herein, ''imagery'' means the product acquired by space-based national intelligence reconnaissance systems that provides a likeness or representation of any natural or man-made feature or related objective or activities and satellite positional data acquired at the same time the likeness or representation was acquired.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 12958

Ex. Ord. No. 12958, Apr. 17, 1995, 60 F.R. 19825, as amended by Ex. Ord. No. 12972, Sept. 18, 1995, 60 F.R. 48863; Ex. Ord. No. 13142, Nov. 19, 1999, 64 F.R. 66089; Ex. Ord. No. 13292, Mar. 25, 2003, 68 F.R. 15315, which related to classified national security information, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731, set out below.

EX. ORD. NO. 12968. ACCESS TO CLASSIFIED INFORMATION

Ex. Ord. No. 12968, Aug. 2, 1995, 60 F.R. 40245, as amended by Ex. Ord. No. 13467, §3(b), June 30, 2008, 73 F.R. 38107, provided:

The national interest requires that certain information be maintained in confidence through a system of classification in order to protect our citizens, our democratic institutions, and our participation within the community of nations. The unauthorized disclosure of information classified in the national interest can cause irreparable damage to the national security and loss of human life.

Security policies designed to protect classified information must ensure consistent, cost effective, and efficient protection of our Nation's classified information, while providing fair and equitable treatment to those Americans upon whom we rely to guard our national security.

This order establishes a uniform Federal personnel security program for employees who will be considered for initial or continued access to classified information.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1—DEFINITIONS, ACCESS TO CLASSIFIED INFORMATION, FINANCIAL DISCLOSURE, AND OTHER ITEMS

SECTION 1.1. *Definitions*. For the purposes of this order: (a) ''Agency'' means any ''Executive agency,'' as defined in 5 U.S.C. 105, the ''military departments,'' as defined in 5 U.S.C. 102, and any other entity within the executive branch that comes into the possession of classified information, including the Defense Intelligence Agency, National Security Agency, and the National Reconnaissance Office.

(b) ''Applicant'' means a person other than an employee who has received an authorized conditional offer of employment for a position that requires access to classified information.

(c) ''Authorized investigative agency'' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(d) ''Classified information'' means information that has been determined pursuant to Executive Order No. 12958 [formerly set out above], or any successor order, Executive Order No. 12951 [set out above], or any successor order, or the Atomic Energy Act of 1954 (42 U.S.C. 2011 [*et seq.*]), to require protection against unauthorized disclosure.

(e) ''Employee'' means a person, other than the President and Vice President, employed by, detailed or assigned to, an agency, including members of the Armed Forces; an expert or consultant to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of an agency, including all subcontractors; a personal services contractor; or any other category of person who acts for or on behalf of an agency as determined by the appropriate agency head.

(f) ''Foreign power'' and ''agent of a foreign power'' have the meaning provided in 50 U.S.C. 1801.

(g) ''Need for access'' means a determination that an employee requires access to a particular level of classified information in order to perform or assist in a lawful and authorized governmental function.

(h) ''Need-to-know'' means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(i) ''Overseas Security Executive Agent'' means the Board established by the President to consider, develop, coordinate and promote policies, standards and agreements on overseas security operations, programs and projects that affect all United States Government agencies under the authority of a Chief of Mission.

(j) ''Security Executive Agent'' means the Security Executive Agent established by the President to consider, coordinate, and recommend policy directives for U.S. security policies, procedures, and practices.

(k) ''Special access program'' has the meaning provided in section 4.1 of Executive Order No. 12958 [formerly set out above], or any successor order.

SEC. 1.2. *Access to Classified Information*. (a) No employee shall be granted access to classified information unless that employee has been determined to be eligible in accordance with this order and to possess a need-to-know.

(b) Agency heads shall be responsible for establishing and maintaining an effective program to ensure that access to classified information by each employee is clearly consistent with the interests of the national security.

(c) Employees shall not be granted access to classified information unless they:

(1) have been determined to be eligible for access under section 3.1 of this order by agency heads or designated officials based upon a favorable adjudication of an appropriate investigation of the employee's background;

(2) have a demonstrated need-to-know; and

(3) have signed an approved nondisclosure agreement.

(d) All employees shall be subject to investigation by an appropriate government authority prior to being granted access to classified information and at any time during the period of access to ascertain whether they continue to meet the requirements for access.

(e)(1) All employees granted access to classified information shall be required as a condition of such access to provide to the employing agency written consent permitting access by an authorized investigative agency, for such time as access to classified information is maintained and for a period of 3 years thereafter, to:

(A) relevant financial records that are maintained by a financial institution as defined in 31 U.S.C. 5312(a) or by a holding company as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401[(6)]);

(B) consumer reports pertaining to the employee under the Fair Credit Reporting Act (15 U.S.C. 1681a [1681 *et seq.*]); and

(C) records maintained by commercial entities within the United States pertaining to any travel by the employee outside the United States.

(2) Information may be requested pursuant to employee consent under this section where:

(A) there are reasonable grounds to believe, based on credible information, that the employee or former employee is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(B) information the employing agency deems credible indicates the employee or former employee has incurred excessive indebtedness or has acquired a level of affluence that cannot be explained by other information; or

(C) circumstances indicate the employee or former employee had the capability and opportunity to disclose classified information that is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Nothing in this section shall be construed to affect the authority of an investigating agency to obtain information pursuant to the Right to Financial Privacy Act [of 1978, 12 U.S.C. 3401 *et seq.*], the Fair Credit Reporting Act [15 U.S.C. 1681 *et seq.*] or any other applicable law.

SEC. 1.3. *Financial Disclosure*. (a) Not later than 180 days after the effective date of this order, the head of each agency that originates, handles, transmits, or possesses classified information shall designate each employee, by position or category where possible, who has a regular need for access to classified information that, in the discretion of the agency head, would reveal:

(1) the identity of covert agents as defined in the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 [*et seq.*]);

(2) technical or specialized national intelligence collection and processing systems that, if disclosed in an unauthorized manner, would substantially negate or impair the effectiveness of the system;

(3) the details of:

(A) the nature, contents, algorithm, preparation, or use of any code, cipher, or cryptographic system or;

(B) the design, construction, functioning, maintenance, or repair of any cryptographic equipment; but not including information concerning the use of cryptographic equipment and services;

(4) particularly sensitive special access programs, the disclosure of which would substantially negate or impair the effectiveness of the information or activity involved; or

(5) especially sensitive nuclear weapons design information (but only for those positions that have been certified as being of a high degree of importance or sensitivity, as described in section 145(f) of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2165(f)]).

(b) An employee may not be granted access, or hold a position designated as requiring access, to information described in subsection (a) unless, as a condition of access to such information, the employee:

(1) files with the head of the agency a financial disclosure report, including information with respect to the spouse and dependent children of the employee, as part of all background investigations or reinvestigations;

(2) is subject to annual financial disclosure requirements, if selected by the agency head; and

(3) files relevant information concerning foreign travel, as determined by the Security Executive Agent.

(c) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop procedures for the implementation of this section, including a standard financial disclosure form for use by employees under subsection (b) of this section, and agency heads shall identify certain employees, by position or category, who are subject to annual financial disclosure.

SEC. 1.4. *Use of Automated Financial Record Data Bases*. As part of all investigations and reinvestigations described in section 1.2(d) of this order, agencies may request the Department of the Treasury, under terms and conditions prescribed by the Secretary of the Treasury, to search automated data bases consisting of reports of currency transactions by financial institutions, international transportation of currency or monetary instruments, foreign bank and financial accounts, transactions under $10,000 that are reported as possible money laundering violations, and records of foreign travel.

SEC. 1.5. *Employee Education and Assistance*. The head of each agency that grants access to classified information shall establish a program for employees with access to classified information to: (a) educate employees about individual responsibilities under this order; and

(b) inform employees about guidance and assistance available concerning issues that may affect their eligibility for access to classified information, including sources of assistance for employees who have questions or concerns about financial matters, mental health, or substance abuse.

PART 2—ACCESS ELIGIBILITY POLICY AND PROCEDURE

SEC. 2.1. *Eligibility Determinations*. (a) Determinations of eligibility for access to classified information shall

be based on criteria established under this order. Such determinations are separate from suitability determinations with respect to the hiring or retention of persons for employment by the government or any other personnel actions.

(b) The number of employees that each agency determines are eligible for access to classified information shall be kept to the minimum required for the conduct of agency functions.

(1) Eligibility for access to classified information shall not be requested or granted solely to permit entry to, or ease of movement within, controlled areas when the employee has no need for access and access to classified information may reasonably be prevented. Where circumstances indicate employees may be inadvertently exposed to classified information in the course of their duties, agencies are authorized to grant or deny, in their discretion, facility access approvals to such employees based on an appropriate level of investigation as determined by each agency.

(2) Except in agencies where eligibility for access is a mandatory condition of employment, eligibility for access to classified information shall only be requested or granted based on a demonstrated, foreseeable need for access. Requesting or approving eligibility in excess of actual requirements is prohibited.

(3) Eligibility for access to classified information may be granted where there is a temporary need for access, such as one-time participation in a classified project, provided the investigative standards established under this order have been satisfied. In such cases, a fixed date or event for expiration shall be identified and access to classified information shall be limited to information related to the particular project or assignment.

(4) Access to classified information shall be terminated when an employee no longer has a need for access.

SEC. 2.2. *Level of Access Approval*. (a) The level at which an access approval is granted for an employee shall be limited, and relate directly, to the level of classified information for which there is a need for access. Eligibility for access to a higher level of classified information includes eligibility for access to information classified at a lower level.

(b) Access to classified information relating to a special access program shall be granted in accordance with procedures established by the head of the agency that created the program or, for programs pertaining to intelligence activities (including special activities but not including military operational, strategic, and tactical programs) or intelligence sources and methods, by the Director of Central Intelligence. To the extent possible and consistent with the national security interests of the United States, such procedures shall be consistent with the standards and procedures established by and under this order.

SEC. 2.3. *Temporary Access to Higher Levels*. (a) An employee who has been determined to be eligible for access to classified information based on favorable adjudication of a completed investigation may be granted temporary access to a higher level where security personnel authorized by the agency head to make access eligibility determinations find that such access:

(1) is necessary to meet operational or contractual exigencies not expected to be of a recurring nature;

(2) will not exceed 180 days; and

(3) is limited to specific, identifiable information that is made the subject of a written access record.

(b) Where the access granted under subsection (a) of this section involves another agency's classified information, that agency must concur before access to its information is granted.

SEC. 2.4. *Reciprocal Acceptance of Access Eligibility Determinations*. (a) Except when an agency has substantial information indicating that an employee may not satisfy the standards in section 3.1 of this order, background investigations and eligibility determinations conducted under this order shall be mutually and reciprocally accepted by all agencies.

(b) Except where there is substantial information indicating that the employee may not satisfy the standards in section 3.1 of this order, an employee with existing access to a special access program shall not be denied eligibility for access to another special access program at the same sensitivity level as determined personally by the agency head or deputy agency head, or have an existing access eligibility readjudicated, so long as the employee has a need for access to the information involved.

(c) This section shall not preclude agency heads from establishing additional, but not duplicative, investigative or adjudicative procedures for a special access program or for candidates for detail or assignment to their agencies, where such procedures are required in exceptional circumstances to protect the national security.

(d) Where temporary eligibility for access is granted under sections 2.3 or 3.3 of this order or where the determination of eligibility for access is conditional, the fact of such temporary or conditional access shall be conveyed to any other agency that considers affording the employee access to its information.

SEC. 2.5. *Specific Access Requirement*. (a) Employees who have been determined to be eligible for access to classified information shall be given access to classified information only where there is a need-to-know that information.

(b) It is the responsibility of employees who are authorized holders of classified information to verify that a prospective recipient's eligibility for access has been granted by an authorized agency official and to ensure that a need-to-know exists prior to allowing such access, and to challenge requests for access that do not appear well-founded.

SEC. 2.6. *Access by Non-United States Citizens*. (a) Where there are compelling reasons in furtherance of an agency mission, immigrant alien and foreign national employees who possess a special expertise may, in the discretion of the agency, be granted limited access to classified information only for specific programs, projects, contracts, licenses, certificates, or grants for which there is a need for access. Such individuals shall not be eligible for access to any greater level of classified information than the United States Government has determined may be releasable to the country of which the subject is currently a citizen, and such limited access may be approved only if the prior 10 years of the subject's life can be appropriately investigated. If there are any doubts concerning granting access, additional lawful investigative procedures shall be fully pursued.

(b) Exceptions to these requirements may be permitted only by the agency head or the senior agency official designated under section 6.1 of this order to further substantial national security interests.

PART 3—ACCESS ELIGIBILITY STANDARDS

SEC. 3.1. *Standards*. (a) No employee shall be deemed to be eligible for access to classified information merely by reason of Federal service or contracting, licensee, certificate holder, or grantee status, or as a matter of right or privilege, or as a result of any particular title, rank, position, or affiliation.

(b) Except as provided in sections 2.6 and 3.3 of this order, eligibility for access to classified information shall be granted only to employees who are United States citizens for whom an appropriate investigation has been completed and whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information. A determination of eligibility for access to such information is a discretionary security decision based on judgments by appropriately trained adjudicative personnel or appropriate automated procedures. Eligibility shall be granted only where facts and circumstances indicate access to clas-

sified information is clearly consistent with the national security interests of the United States, and any doubt shall be resolved in favor of the national security.

(c) The United States Government does not discriminate on the basis of race, color, religion, sex, national origin, disability, or sexual orientation in granting access to classified information.

(d) In determining eligibility for access under this order, agencies may investigate and consider any matter that relates to the determination of whether access is clearly consistent with the interests of national security. No inference concerning the standards in this section may be raised solely on the basis of the sexual orientation of the employee.

(e) No negative inference concerning the standards in this section may be raised solely on the basis of mental health counseling. Such counseling can be a positive factor in eligibility determinations. However, mental health counseling, where relevant to the adjudication of access to classified information, may justify further inquiry to determine whether the standards of subsection (b) of this section are satisfied, and mental health may be considered where it directly relates to those standards.

(f) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop a common set of adjudicative guidelines for determining eligibility for access to classified information, including access to special access programs.

SEC. 3.2. *Basis for Eligibility Approval.* (a) Eligibility determinations for access to classified information shall be based on information concerning the applicant or employee that is acquired through the investigation conducted pursuant to this order or otherwise available to security officials and shall be made part of the applicant's or employee's security record. Applicants or employees shall be required to provide relevant information pertaining to their background and character for use in investigating and adjudicating their eligibility for access.

(b) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop a common set of investigative standards for background investigations for access to classified information. These standards may vary for the various levels of access.

(c) Nothing in this order shall prohibit an agency from utilizing any lawful investigative procedure in addition to the investigative requirements set forth in this order and its implementing regulations to resolve issues that may arise during the course of a background investigation or reinvestigation.

SEC. 3.3. *Special Circumstances.* (a) In exceptional circumstances where official functions must be performed prior to the completion of the investigative and adjudication process, temporary eligibility for access to classified information may be granted to an employee while the initial investigation is underway. When such eligibility is granted, the initial investigation shall be expedited.

(1) Temporary eligibility for access under this section shall include a justification, and the employee must be notified in writing that further access is expressly conditioned on the favorable completion of the investigation and issuance of an access eligibility approval. Access will be immediately terminated, along with any assignment requiring an access eligibility approval, if such approval is not granted.

(2) Temporary eligibility for access may be granted only by security personnel authorized by the agency head to make access eligibility determinations and shall be based on minimum investigative standards developed by the Security Executive Agent not later than 180 days after the effective date of this order.

(3) Temporary eligibility for access may be granted only to particular, identified categories of classified information necessary to perform the lawful and authorized functions that are the basis for the granting of temporary access.

(b) Nothing in subsection (a) shall be construed as altering the authority of an agency head to waive requirements for granting access to classified information pursuant to statutory authority.

(c) Where access has been terminated under section 2.1(b)(4) of this order and a new need for access arises, access eligibility up to the same level shall be reapproved without further investigation as to employees who were determined to be eligible based on a favorable adjudication of an investigation completed within the prior 5 years, provided they have remained employed by the same employer during the period in question, the employee certifies in writing that there has been no change in the relevant information provided by the employee for the last background investigation, and there is no information that would tend to indicate the employee may no longer satisfy the standards established by this order for access to classified information.

(d) Access eligibility shall be reapproved for individuals who were determined to be eligible based on a favorable adjudication of an investigation completed within the prior 5 years and who have been retired or otherwise separated from United States Government employment for not more than 2 years; provided there is no indication the individual may no longer satisfy the standards of this order, the individual certifies in writing that there has been no change in the relevant information provided by the individual for the last background investigation, and an appropriate record check reveals no unfavorable information.

SEC. 3.4. *Reinvestigation Requirements.* (a) Because circumstances and characteristics may change dramatically over time and thereby alter the eligibility of employees for continued access to classified information, reinvestigations shall be conducted with the same priority and care as initial investigations.

(b) Employees who are eligible for access to classified information shall be the subject of periodic reinvestigations and may also be reinvestigated if, at any time, there is reason to believe that they may no longer meet the standards for access established in this order.

(c) Not later than 180 days after the effective date of this order, the Security Executive Agent shall develop a common set of reinvestigative standards, including the frequency of reinvestigations.

SEC. 3.5. *Continuous Evaluation.* An individual who has been determined to be eligible for or who currently has access to classified information shall be subject to continuous evaluation under standards (including, but not limited to, the frequency of such evaluation) as determined by the Director of National Intelligence.

PART 4—INVESTIGATIONS FOR FOREIGN GOVERNMENTS

SEC. 4. *Authority.* Agencies that conduct background investigations, including the Federal Bureau of Investigation and the Department of State, are authorized to conduct personnel security investigations in the United States when requested by a foreign government as part of its own personnel security program and with the consent of the individual.

PART 5—REVIEW OF ACCESS DETERMINATIONS

SEC. 5.1. *Determinations of Need for Access.* A determination under section 2.1(b)(4) of this order that an employee does not have, or no longer has, a need for access is a discretionary determination and shall be conclusive.

SEC. 5.2. *Review Proceedings for Denials or Revocations of Eligibility for Access.* (a) Applicants and employees who are determined to not meet the standards for access to classified information established in section 3.1 of this order shall be:

(1) provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;

(2) provided within 30 days, upon request and to the extent the documents would be provided if requested

under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (3 U.S.C. 552a), as applicable, any documents, records, and reports upon which a denial or revocation is based;

(3) informed of their right to be represented by counsel or other representative at their own expense; to request any documents, records, and reports as described in section 5.2(a)(2) upon which a denial or revocation is based; and to request the entire investigative file, as permitted by the national security and other applicable law, which, if requested, shall be promptly provided prior to the time set for a written reply;

(4) provided a reasonable opportunity to reply in writing to, and to request a review of, the determination;

(5) provided written notice of and reasons for the results of the review, the identity of the deciding authority, and written notice of the right to appeal;

(6) provided an opportunity to appeal in writing to a high level panel, appointed by the agency head, which shall be comprised of at least three members, two of whom shall be selected from outside the security field. Decisions of the panel shall be in writing, and final except as provided in subsection (b) of this section; and

(7) provided an opportunity to appear personally and to present relevant documents, materials, and information at some point in the process before an adjudicative or other authority, other than the investigating entity, as determined by the agency head. A written summary or recording of such appearance shall be made part of the applicant's or employee's security record, unless such appearance occurs in the presence of the appeals panel described in subsection (a)(6) of this section.

(b) Nothing in this section shall prohibit an agency head from personally exercising the appeal authority in subsection (a)(6) of this section based upon recommendations from an appeals panel. In such case, the decision of the agency head shall be final.

(c) Agency heads shall promulgate regulations to implement this section and, at their sole discretion and as resources and national security considerations permit, may provide additional review proceedings beyond those required by subsection (a) of this section. This section does not require additional proceedings, however, and creates no procedural or substantive rights.

(d) When the head of an agency or principal deputy personally certifies that a procedure set forth in this section cannot be made available in a particular case without damaging the national security interests of the United States by revealing classified information, the particular procedure shall not be made available. This certification shall be conclusive.

(e) This section shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to any law or other Executive order to deny or terminate access to classified information in the interests of national security. The power and responsibility to deny or terminate access to classified information pursuant to any law or other Executive order may be exercised only where the agency head determines that the procedures prescribed in subsection (a) of this section cannot be invoked in a manner that is consistent with national security. This determination shall be conclusive.

(f)(1) This section shall not be deemed to limit or affect the responsibility and power of an agency head to make determinations of suitability for employment.

(2) Nothing in this section shall require that an agency provide the procedures prescribed in subsection (a) of this section to an applicant where a conditional offer of employment is withdrawn for reasons of suitability or any other reason other than denial of eligibility for access to classified information.

(3) A suitability determination shall not be used for the purpose of denying an applicant or employee the review proceedings of this section where there has been a denial or revocation of eligibility for access to classified information.

PART 6—IMPLEMENTATION

SEC. 6.1. *Agency Implementing Responsibilities*. Heads of agencies that grant employees access to classified information shall: (a) designate a senior agency official to direct and administer the agency's personnel security program established by this order. All such programs shall include active oversight and continuing security education and awareness programs to ensure effective implementation of this order;

(b) cooperate, under the guidance of the Security Executive Agent, with other agencies to achieve practical, consistent, and effective adjudicative training and guidelines; and

(c) conduct periodic evaluations of the agency's implementation and administration of this order, including the implementation of section 1.3(a) of this order. Copies of each report shall be provided to the Security Executive Agent.

SEC. 6.2. *Employee Responsibilities*. (a) Employees who are granted eligibility for access to classified information shall:

(1) protect classified information in their custody from unauthorized disclosure;

(2) report all contacts with persons, including foreign nationals, who seek in any way to obtain unauthorized access to classified information;

(3) report all violations of security regulations to the appropriate security officials; and

(4) comply with all other security requirements set forth in this order and its implementing regulations.

(b) Employees are encouraged and expected to report any information that raises doubts as to whether another employee's continued eligibility for access to classified information is clearly consistent with the national security.

SEC. 6.3. *Security Executive Agent Responsibilities and Implementation*. (a) With respect to actions taken by the Security Executive Agent pursuant to sections 1.3(c), 3.1(f), 3.2(b), 3.3(a)(2), and 3.4(c) of this order, the Director of National Intelligence shall serve as the final authority for implementation.

(b) Any guidelines, standards, or procedures developed by the Security Executive Agent pursuant to this order shall be consistent with those guidelines issued by the Federal Bureau of Investigation in March 1994 on Background Investigations Policy/Guidelines Regarding Sexual Orientation.

(c) In carrying out its responsibilities under this order, the Security Executive Agent shall consult where appropriate with the Overseas Security Executive Agent. In carrying out its responsibilities under section 1.3(c) of this order, the Security Executive Agent shall obtain the concurrence of the Director of the Office of Management and Budget.

SEC. 6.4. *Sanctions*. Employees shall be subject to appropriate sanctions if they knowingly and willfully grant eligibility for, or allow access to, classified information in violation of this order or its implementing regulations. Sanctions may include reprimand, suspension without pay, removal, and other actions in accordance with applicable law and agency regulations.

PART 7—GENERAL PROVISIONS

SEC. 7.1. *Classified Information Procedures Act*. Nothing in this order is intended to alter the procedures established under the Classified Information Procedures Act (18 U.S.C. App.).

SEC. 7.2. *General*. (a) Information obtained by an agency under sections 1.2(e) or 1.3 of this order may not be disseminated outside the agency, except to:

(1) the agency employing the employee who is the subject of the records or information;

(2) the Department of Justice for law enforcement or counterintelligence purposes; or

(3) any agency if such information is clearly relevant to the authorized responsibilities of such agency.

(b) The Attorney General, at the request of the head of an agency, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(c) No prior Executive orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive order, this order

shall control, except that this order shall not diminish or otherwise affect the requirements of Executive Order No. 10450 [5 U.S.C. 7311 note], the denial and revocation procedures provided to individuals covered by Executive Order No. 10865, as amended [set out above], or access by historical researchers and former presidential appointees under Executive Order No. 12958 [formerly set out above] or any successor order.

(d) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(e) This Executive order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(f) This order is effective immediately.

EX. ORD. NO. 13467. REFORMING PROCESSES RELATED TO SUITABILITY FOR GOVERNMENT EMPLOYMENT, FITNESS FOR CONTRACTOR EMPLOYEES, AND ELIGIBILITY FOR ACCESS TO CLASSIFIED NATIONAL SECURITY INFORMATION

Ex. Ord. No. 13467, June 30, 2008, 73 F.R. 38103, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure an efficient, practical, reciprocal, and aligned system for investigating and determining suitability for Government employment, contractor employee fitness, and eligibility for access to classified information, while taking appropriate account of title III of Public Law 108–458, it is hereby ordered as follows:

PART 1—POLICY, APPLICABILITY, AND DEFINITIONS

SECTION 1.1. *Policy*. Executive branch policies and procedures relating to suitability, contractor employee fitness, eligibility to hold a sensitive position, access to federally controlled facilities and information systems, and eligibility for access to classified information shall be aligned using consistent standards to the extent possible, provide for reciprocal recognition, and shall ensure cost-effective, timely, and efficient protection of the national interest, while providing fair treatment to those upon whom the Federal Government relies to conduct our Nation's business and protect national security.

SEC. 1.2. *Applicability*. (a) This order applies to all covered individuals as defined in section 1.3(g), except that:

(i) the provisions regarding eligibility for physical access to federally controlled facilities and logical access to federally controlled information systems do not apply to individuals exempted in accordance with guidance pursuant to the Federal Information Security Management Act (title III of Public Law 107–347) and Homeland Security Presidential Directive 12; and

(ii) the qualification standards for enlistment, appointment, and induction into the Armed Forces pursuant to title 10, United States Code, are unaffected by this order.

(b) This order also applies to investigations and determinations of eligibility for access to classified information for employees of agencies working in or for the legislative or judicial branches when those investigations or determinations are conducted by the executive branch.

SEC. 1.3. *Definitions*. For the purpose of this order: (a) ''Adjudication'' means the evaluation of pertinent data in a background investigation, as well as any other available information that is relevant and reliable, to determine whether a covered individual is:

(i) suitable for Government employment;

(ii) eligible for logical and physical access;

(iii) eligible for access to classified information;

(iv) eligible to hold a sensitive position; or

(v) fit to perform work for or on behalf of the Government as a contractor employee.

(b) ''Agency'' means any ''Executive agency'' as defined in section 105 of title 5, United States Code, including the ''military departments,'' as defined in section 102 of title 5, United States Code, and any other entity within the executive branch that comes into possession of classified information or has designated positions as sensitive, except such an entity headed by an officer who is not a covered individual.

(c) ''Classified information'' means information that has been determined pursuant to Executive Order 12958 of April 17, 1995, as amended, or a successor or predecessor order, or the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*) to require protection against unauthorized disclosure.

(d) ''Continuous evaluation'' means reviewing the background of an individual who has been determined to be eligible for access to classified information (including additional or new checks of commercial databases, Government databases, and other information lawfully available to security officials) at any time during the period of eligibility to determine whether that individual continues to meet the requirements for eligibility for access to classified information.

(e) ''Contractor'' means an expert or consultant (not appointed under section 3109 of title 5, United States Code) to an agency; an industrial or commercial contractor, licensee, certificate holder, or grantee of any agency, including all subcontractors; a personal services contractor; or any other category of person who performs work for or on behalf of an agency (but not a Federal employee).

(f) ''Contractor employee fitness'' means fitness based on character and conduct for work for or on behalf of the Government as a contractor employee.

(g) ''Covered individual'' means a person who performs work for or on behalf of the executive branch, or who seeks to perform work for or on behalf of the executive branch, but does not include:

(i) the President or (except to the extent otherwise directed by the President) employees of the President under section 105 or 107 of title 3, United States Code; or

(ii) the Vice President or (except to the extent otherwise directed by the Vice President) employees of the Vice President under section 106 of title 3 or annual legislative branch appropriations acts.

(h) ''End-to-end automation'' means an executive branch-wide federated system that uses automation to manage and monitor cases and maintain relevant documentation of the application (but not an employment application), investigation, adjudication, and continuous evaluation processes.

(i) ''Federally controlled facilities'' and ''federally controlled information systems'' have the meanings prescribed in guidance pursuant to the Federal Information Security Management Act (title III of Public Law 107–347) and Homeland Security Presidential Directive 12.

(j) ''Logical and physical access'' means access other than occasional or intermittent access to federally controlled facilities or information systems.

(k) ''Sensitive position'' means any position so designated under Executive Order 10450 of April 27, 1953, as amended.

(*l*) ''Suitability'' has the meaning and coverage provided in 5 CFR Part 731.

PART 2—ALIGNMENT, RECIPROCITY, AND GOVERNANCE

SEC. 2.1. *Aligned System*. (a) Investigations and adjudications of covered individuals who require a determination of suitability, eligibility for logical and physical access, eligibility to hold a sensitive position, eligibility for access to classified information, and, as appropriate, contractor employee fitness, shall be aligned using consistent standards to the extent possible. Each successively higher level of investigation and adjudica-

tion shall build upon, but not duplicate, the ones below it.

(b) The aligned system shall employ updated and consistent standards and methods, enable innovations with enterprise information technology capabilities and end-to-end automation to the extent practicable, and ensure that relevant information maintained by agencies can be accessed and shared rapidly across the executive branch, while protecting national security, protecting privacy-related information, ensuring resulting decisions are in the national interest, and providing the Federal Government with an effective workforce.

(c) Except as otherwise authorized by law, background investigations and adjudications shall be mutually and reciprocally accepted by all agencies. An agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination consistent with law, directive, or regulation) that exceed the requirements for suitability, contractor employee fitness, eligibility for logical or physical access, eligibility to hold a sensitive position, or eligibility for access to classified information without the approval of the Suitability Executive Agent or Security Executive Agent, as appropriate, and provided that approval to establish additional requirements shall be limited to circumstances where additional requirements are necessary to address significant needs unique to the agency involved or to protect national security.

SEC. 2.2. *Establishment and Functions of Performance Accountability Council*. (a) There is hereby established a Suitability and Security Clearance Performance Accountability Council (Council).

(b) The Deputy Director for Management, Office of Management and Budget, shall serve as Chair of the Council and shall have authority, direction, and control over the Council's functions. Membership on the Council shall include the Suitability Executive Agent and the Security Executive Agent. The Chair shall select a Vice Chair to act in the Chair's absence. The Chair shall have authority to designate officials from additional agencies who shall serve as members of the Council. Council membership shall be limited to Federal Government employees and shall include suitability and security professionals.

(c) The Council shall be accountable to the President to achieve, consistent with this order, the goals of reform, and is responsible for driving implementation of the reform effort, ensuring accountability by agencies, ensuring the Suitability Executive Agent and the Security Executive Agent align their respective processes, and sustaining reform momentum.

(d) The Council shall:

(i) ensure alignment of suitability, security, and, as appropriate, contractor employee fitness investigative and adjudicative processes;

(ii) hold agencies accountable for the implementation of suitability, security, and, as appropriate, contractor employee fitness processes and procedures;

(iii) establish requirements for enterprise information technology;

(iv) establish annual goals and progress metrics and prepare annual reports on results;

(v) ensure and oversee the development of tools and techniques for enhancing background investigations and the making of eligibility determinations;

(vi) arbitrate disparities in procedures between the Suitability Executive Agent and the Security Executive Agent;

(vii) ensure sharing of best practices; and

(viii) advise the Suitability Executive Agent and the Security Executive Agent on policies affecting the alignment of investigations and adjudications.

(e) The Chair may, to ensure the effective implementation of the policy set forth in section 1.1 of this order and to the extent consistent with law, assign, in whole or in part, to the head of any agency (solely or jointly) any function within the Council's responsibility relating to alignment and improvement of investigations and determinations of suitability, contractor employee fitness, eligibility for logical and physical access, eligibility for access to classified information, or eligibility to hold a sensitive position.

SEC. 2.3. *Establishment, Designation, and Functions of Executive Agents*. (a) There is hereby established a Suitability Executive Agent and a Security Executive Agent.

(b) The Director of the Office of Personnel Management shall serve as the Suitability Executive Agent. As the Suitability Executive Agent, the Director of the Office of Personnel Management will continue to be responsible for developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications relating to determinations of suitability and eligibility for logical and physical access.

(c) The Director of National Intelligence shall serve as the Security Executive Agent. The Security Executive Agent:

(i) shall direct the oversight of investigations and determinations of eligibility for access to classified information or eligibility to hold a sensitive position made by any agency;

(ii) shall be responsible for developing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications relating to determinations of eligibility for access to classified information or eligibility to hold a sensitive position;

(iii) may issue guidelines and instructions to the heads of agencies to ensure appropriate uniformity, centralization, efficiency, effectiveness, and timeliness in processes relating to determinations by agencies of eligibility for access to classified information or eligibility to hold a sensitive position;

(iv) shall serve as the final authority to designate an agency or agencies to conduct investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to classified information or eligibility to hold a sensitive position;

(v) shall serve as the final authority to designate an agency or agencies to determine eligibility for access to classified information in accordance with Executive Order 12968 of August 2, 1995;

(vi) shall ensure reciprocal recognition of eligibility for access to classified information among the agencies, including acting as the final authority to arbitrate and resolve disputes among the agencies involving the reciprocity of investigations and determinations of eligibility for access to classified information or eligibility to hold a sensitive position; and

(vii) may assign, in whole or in part, to the head of any agency (solely or jointly) any of the functions detailed in (i) through (vi), above, with the agency's exercise of such assigned functions to be subject to the Security Executive Agent's oversight and with such terms and conditions (including approval by the Security Executive Agent) as the Security Executive Agent determines appropriate.

(d) Nothing in this order shall be construed in a manner that would limit the authorities of the Director of the Office of Personnel Management or the Director of National Intelligence under law.

SEC. 2.4. *Additional Functions*. (a) The duties assigned to the Security Policy Board by Executive Order 12968 of August 2, 1995, to consider, coordinate, and recommend policy directives for executive branch security policies, procedures, and practices are reassigned to the Security Executive Agent.

(b) Heads of agencies shall:

(i) carry out any function assigned to the agency head by the Chair, and shall assist the Chair, the Council, the Suitability Executive Agent, and the Security Executive Agent in carrying out any function under sections 2.2 and 2.3 of this order;

(ii) implement any policy or procedure developed pursuant to this order;

(iii) to the extent permitted by law, make available to the Performance Accountability Council, the Suit-

ability Executive Agent, or the Security Executive Agent such information as may be requested to implement this order;

(iv) ensure that all actions taken under this order take account of the counterintelligence interests of the United States, as appropriate; and

(v) ensure that actions taken under this order are consistent with the President's constitutional authority to:

(A) conduct the foreign affairs of the United States;

(B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties;

(C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and

(D) supervise the unitary executive branch.

PART 3—MISCELLANEOUS

SEC. 3. *General Provisions*. (a) Executive Order 13381 of June 27, 2005, as amended, is revoked. Nothing in this order shall:

(i) supersede, impede, or otherwise affect:

(A) Executive Order 10450 of April 27, 1953, as amended;

(B) Executive Order 10577 of November 23, 1954, as amended;

(C) Executive Order 12333 of December 4, 1981, as amended;

(D) Executive Order 12829 of January 6, 1993, as amended; or

(E) Executive Order 12958 of April 17, 1995, as amended; nor

(ii) diminish or otherwise affect the denial and revocation procedures provided to individuals covered by Executive Order 10865 of February 20, 1960, as amended.

(b) [Amended Ex. Ord. No. 12968, set out above.]

(c) Nothing in this order shall supersede, impede, or otherwise affect the remainder of Executive Order 12968 of August 2, 1995, as amended.

(d) [Amended Ex. Ord. No. 12171, set out as a note under section 7103 of Title 5, Government Organization and Employees.]

(e) Nothing in this order shall be construed to impair or otherwise affect the:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) Existing delegations of authority made pursuant to Executive Order 13381 of June 27, 2005, as amended, to any agency relating to granting eligibility for access to classified information and conducting investigations shall 13 [sic] remain in effect, subject to the exercise of authorities pursuant to this order to revise or revoke such delegation.

(h) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order shall not be affected.

(i) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13526. CLASSIFIED NATIONAL SECURITY INFORMATION

Ex. Ord. No. 13526, Dec. 29, 2009, 75 F.R. 707, 1013, provided:

This order prescribes a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism. Our democratic principles require that the American people be informed of the activities of their Government. Also, our Nation's progress depends on the free flow of information both within the Government and to the American people. Nevertheless, throughout our history, the national defense has required that certain information be maintained in confidence in order to protect our citizens, our democratic institutions, our homeland security, and our interactions with foreign nations. Protecting information critical to our Nation's security and demonstrating our commitment to open Government through accurate and accountable application of classification standards and routine, secure, and effective declassification are equally important priorities.

NOW, THEREFORE, I, BARACK OBAMA, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1—ORIGINAL CLASSIFICATION

SECTION 1.1. *Classification Standards*. (a) Information may be originally classified under the terms of this order only if all of the following conditions are met:

(1) an original classification authority is classifying the information;

(2) the information is owned by, produced by or for, or is under the control of the United States Government;

(3) the information falls within one or more of the categories of information listed in section 1.4 of this order; and

(4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, which includes defense against transnational terrorism, and the original classification authority is able to identify or describe the damage.

(b) If there is significant doubt about the need to classify information, it shall not be classified. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or

(2) create any substantive or procedural rights subject to judicial review.

(c) Classified information shall not be declassified automatically as a result of any unauthorized disclosure of identical or similar information.

(d) The unauthorized disclosure of foreign government information is presumed to cause damage to the national security.

SEC. 1.2. *Classification Levels*. (a) Information may be classified at one of the following three levels:

(1) ''Top Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.

(2) ''Secret'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

(3) ''Confidential'' shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(b) Except as otherwise provided by statute, no other terms shall be used to identify United States classified information.

(c) If there is significant doubt about the appropriate level of classification, it shall be classified at the lower level.

SEC. 1.3. *Classification Authority*. (a) The authority to classify information originally may be exercised only by:

(1) the President and the Vice President;

(2) agency heads and officials designated by the President; and

(3) United States Government officials delegated this authority pursuant to paragraph (c) of this section.

(b) Officials authorized to classify information at a specified level are also authorized to classify information at a lower level.

(c) Delegation of original classification authority.

(1) Delegations of original classification authority shall be limited to the minimum required to administer this order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.

(2) ''Top Secret'' original classification authority may be delegated only by the President, the Vice President, or an agency head or official designated pursuant to paragraph (a)(2) of this section.

(3) ''Secret'' or ''Confidential'' original classification authority may be delegated only by the President, the Vice President, an agency head or official designated pursuant to paragraph (a)(2) of this section, or the senior agency official designated under section 5.4(d) of this order, provided that official has been delegated ''Top Secret'' original classification authority by the agency head.

(4) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this order. Each delegation shall identify the official by name or position.

(5) Delegations of original classification authority shall be reported or made available by name or position to the Director of the Information Security Oversight Office.

(d) All original classification authorities must receive training in proper classification (including the avoidance of over-classification) and declassification as provided in this order and its implementing directives at least once a calendar year. Such training must include instruction on the proper safeguarding of classified information and on the sanctions in section 5.5 of this order that may be brought against an individual who fails to classify information properly or protect classified information from unauthorized disclosure. Original classification authorities who do not receive such mandatory training at least once within a calendar year shall have their classification authority suspended by the agency head or the senior agency official designated under section 5.4(d) of this order until such training has taken place. A waiver may be granted by the agency head, the deputy agency head, or the senior agency official if an individual is unable to receive such training due to unavoidable circumstances. Whenever a waiver is granted, the individual shall receive such training as soon as practicable.

(e) Exceptional cases. When an employee, government contractor, licensee, certificate holder, or grantee of an agency who does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this order and its implementing directives. The information shall be transmitted promptly as provided under this order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within 30 days whether to classify this information.

SEC. 1.4. *Classification Categories*. Information shall not be considered for classification unless its unauthorized disclosure could reasonably be expected to cause identifiable or describable damage to the national security in accordance with section 1.2 of this order, and it pertains to one or more of the following:

(a) military plans, weapons systems, or operations;

(b) foreign government information;

(c) intelligence activities (including covert action), intelligence sources or methods, or cryptology;

(d) foreign relations or foreign activities of the United States, including confidential sources;

(e) scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safeguarding nuclear materials or facilities;

(g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or (h) the development, production, or use of weapons of mass destruction.

SEC. 1.5. *Duration of Classification*. (a) At the time of original classification, the original classification authority shall establish a specific date or event for declassification based on the duration of the national security sensitivity of the information. Upon reaching the date or event, the information shall be automatically declassified. Except for information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, the date or event shall not exceed the time frame established in paragraph (b) of this section.

(b) If the original classification authority cannot determine an earlier specific date or event for declassification, information shall be marked for declassification 10 years from the date of the original decision, unless the original classification authority otherwise determines that the sensitivity of the information requires that it be marked for declassification for up to 25 years from the date of the original decision.

(c) An original classification authority may extend the duration of classification up to 25 years from the date of origin of the document, change the level of classification, or reclassify specific information only when the standards and procedures for classifying information under this order are followed.

(d) No information may remain classified indefinitely. Information marked for an indefinite duration of classification under predecessor orders, for example, marked as ''Originating Agency's Determination Required,'' or classified information that contains incomplete declassification instructions or lacks declassification instructions shall be declassified in accordance with part 3 of this order.

SEC. 1.6. *Identification and Markings*. (a) At the time of original classification, the following shall be indicated in a manner that is immediately apparent:

(1) one of the three classification levels defined in section 1.2 of this order;

(2) the identity, by name and position, or by personal identifier, of the original classification authority;

(3) the agency and office of origin, if not otherwise evident;

(4) declassification instructions, which shall indicate one of the following:

(A) the date or event for declassification, as prescribed in section 1.5(a);

(B) the date that is 10 years from the date of original classification, as prescribed in section 1.5(b);

(C) the date that is up to 25 years from the date of original classification, as prescribed in section 1.5(b); or

(D) in the case of information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, the marking prescribed in implementing directives issued pursuant to this order; and

(5) a concise reason for classification that, at a minimum, cites the applicable classification categories in section 1.4 of this order.

(b) Specific information required in paragraph (a) of this section may be excluded if it would reveal additional classified information.

(c) With respect to each classified document, the agency originating the document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are unclassified. In accordance with standards prescribed in directives issued under this order, the Director of the Information Security Oversight Office may grant and revoke temporary waivers of this requirement. The Director shall revoke any waiver upon a finding of abuse.

(d) Markings or other indicia implementing the provisions of this order, including abbreviations and requirements to safeguard classified working papers, shall conform to the standards prescribed in implementing directives issued pursuant to this order.

(e) Foreign government information shall retain its original classification markings or shall be assigned a U.S. classification that provides a degree of protection at least equivalent to that required by the entity that furnished the information. Foreign government information retaining its original classification markings need not be assigned a U.S. classification marking provided that the responsible agency determines that the foreign government markings are adequate to meet the purposes served by U.S. classification markings.

(f) Information assigned a level of classification under this or predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Whenever such information is used in the derivative classification process or is reviewed for possible declassification, holders of such information shall coordinate with an appropriate classification authority for the application of omitted markings.

(g) The classification authority shall, whenever practicable, use a classified addendum whenever classified information constitutes a small portion of an otherwise unclassified document or prepare a product to allow for dissemination at the lowest level of classification possible or in unclassified form.

(h) Prior to public release, all declassified records shall be appropriately marked to reflect their declassification.

SEC. 1.7. *Classification Prohibitions and Limitations*. (a) In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to:

(1) conceal violations of law, inefficiency, or administrative error;

(2) prevent embarrassment to a person, organization, or agency;

(3) restrain competition; or

(4) prevent or delay the release of information that does not require protection in the interest of the national security.

(b) Basic scientific research information not clearly related to the national security shall not be classified.

(c) Information may not be reclassified after declassification and release to the public under proper authority unless:

(1) the reclassification is personally approved in writing by the agency head based on a document-by-document determination by the agency that reclassification is required to prevent significant and demonstrable damage to the national security;

(2) the information may be reasonably recovered without bringing undue attention to the information;

(3) the reclassification action is reported promptly to the Assistant to the President for National Security Affairs (National Security Advisor) and the Director of the Information Security Oversight Office; and

(4) for documents in the physical and legal custody of the National Archives and Records Administration (National Archives) that have been available for public use, the agency head has, after making the determinations required by this paragraph, notified the Archivist of the United States (Archivist), who shall suspend public access pending approval of the reclassification action by the Director of the Information Security Oversight Office. Any such decision by the Director may be appealed by the agency head to the President through the National Security Advisor. Public access shall remain suspended pending a prompt decision on the appeal.

(d) Information that has not previously been disclosed to the public under proper authority may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552), the Presidential Records Act, 44 U.S.C. 2204(c)(1), the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of section 3.5 of this order only if such classification meets the requirements of this order and is accomplished on a document-by-document basis with the personal participation or under the direction of the agency head, the deputy agency head, or the senior agency official designated under section 5.4 of this order. The requirements in this paragraph also apply to those situations in which information has been declassified in accordance with a specific date or event determined by an original classification authority in accordance with section 1.5 of this order.

(e) Compilations of items of information that are individually unclassified may be classified if the compiled information reveals an additional association or relationship that:

(1) meets the standards for classification under this order; and

(2) is not otherwise revealed in the individual items of information.

SEC. 1.8. *Classification Challenges*. (a) Authorized holders of information who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status of the information in accordance with agency procedures established under paragraph (b) of this section.

(b) In accordance with implementing directives issued pursuant to this order, an agency head or senior agency official shall establish procedures under which authorized holders of information, including authorized holders outside the classifying agency, are encouraged and expected to challenge the classification of information that they believe is improperly classified or unclassified. These procedures shall ensure that:

(1) individuals are not subject to retribution for bringing such actions;

(2) an opportunity is provided for review by an impartial official or panel; and

(3) individuals are advised of their right to appeal agency decisions to the Interagency Security Classification Appeals Panel (Panel) established by section 5.3 of this order.

(c) Documents required to be submitted for prepublication review or other administrative process pursuant to an approved nondisclosure agreement are not covered by this section.

SEC. 1.9. *Fundamental Classification Guidance Review*. (a) Agency heads shall complete on a periodic basis a comprehensive review of the agency's classification guidance, particularly classification guides, to ensure the guidance reflects current circumstances and to identify classified information that no longer requires protection and can be declassified. The initial fundamental classification guidance review shall be completed within 2 years of the effective date of this order.

(b) The classification guidance review shall include an evaluation of classified information to determine if it meets the standards for classification under section 1.4 of this order, taking into account an up-to-date assessment of likely damage as described under section 1.2 of this order.

(c) The classification guidance review shall include original classification authorities and agency subject matter experts to ensure a broad range of perspectives.

(d) Agency heads shall provide a report summarizing the results of the classification guidance review to the Director of the Information Security Oversight Office and shall release an unclassified version of this report to the public.

PART 2—DERIVATIVE CLASSIFICATION

SEC. 2.1. *Use of Derivative Classification*. (a) Persons who reproduce, extract, or summarize classified information, or who apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) be identified by name and position, or by personal identifier, in a manner that is immediately apparent for each derivative classification action;

(2) observe and respect original classification decisions; and

(3) carry forward to any newly created documents the pertinent classification markings. For information derivatively classified based on multiple sources, the derivative classifier shall carry forward:

(A) the date or event for declassification that corresponds to the longest period of classification among the sources, or the marking established pursuant to section 1.6(a)(4)(D) of this order; and

(B) a listing of the source materials.

(c) Derivative classifiers shall, whenever practicable, use a classified addendum whenever classified information constitutes a small portion of an otherwise unclassified document or prepare a product to allow for dissemination at the lowest level of classification possible or in unclassified form.

(d) Persons who apply derivative classification markings shall receive training in the proper application of the derivative classification principles of the order, with an emphasis on avoiding over-classification, at least once every 2 years. Derivative classifiers who do not receive such training at least once every 2 years shall have their authority to apply derivative classification markings suspended until they have received such training. A waiver may be granted by the agency head, the deputy agency head, or the senior agency official if an individual is unable to receive such training due to unavoidable circumstances. Whenever a waiver is granted, the individual shall receive such training as soon as practicable.

SEC. 2.2. *Classification Guides.* (a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information. These guides shall conform to standards contained in directives issued under this order.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official; and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agencies shall establish procedures to ensure that classification guides are reviewed and updated as provided in directives issued under this order.

(d) Agencies shall incorporate original classification decisions into classification guides on a timely basis and in accordance with directives issued under this order.

(e) Agencies may incorporate exemptions from automatic declassification approved pursuant to section 3.3(j) of this order into classification guides, provided that the Panel is notified of the intent to take such action for specific information in advance of approval and the information remains in active use.

(f) The duration of classification of a document classified by a derivative classifier using a classification guide shall not exceed 25 years from the date of the origin of the document, except for:

(1) information that should clearly and demonstrably be expected to reveal the identity of a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction; and

(2) specific information incorporated into classification guides in accordance with section 2.2(e) of this order.

PART 3—DECLASSIFICATION AND DOWNGRADING

SEC. 3.1. *Authority for Declassification.* (a) Information shall be declassified as soon as it no longer meets the standards for classification under this order.

(b) Information shall be declassified or downgraded by:

(1) the official who authorized the original classification, if that official is still serving in the same position and has original classification authority;

(2) the originator's current successor in function, if that individual has original classification authority;

(3) a supervisory official of either the originator or his or her successor in function, if the supervisory official has original classification authority; or (4) officials delegated declassification authority in writing by the agency head or the senior agency official of the originating agency.

(c) The Director of National Intelligence (or, if delegated by the Director of National Intelligence, the Principal Deputy Director of National Intelligence) may, with respect to the Intelligence Community, after consultation with the head of the originating Intelligence Community element or department, declassify, downgrade, or direct the declassification or downgrading of information or intelligence relating to intelligence sources, methods, or activities.

(d) It is presumed that information that continues to meet the classification requirements under this order requires continued protection. In some exceptional cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head or the senior agency official. That official will determine, as an exercise of discretion, whether the public interest in disclosure outweighs the damage to the national security that might reasonably be expected from disclosure. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or

(2) create any substantive or procedural rights subject to judicial review.

(e) If the Director of the Information Security Oversight Office determines that information is classified in violation of this order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the President through the National Security Advisor. The information shall remain classified pending a prompt decision on the appeal.

(f) The provisions of this section shall also apply to agencies that, under the terms of this order, do not have original classification authority, but had such authority under predecessor orders.

(g) No information may be excluded from declassification under section 3.3 of this order based solely on the type of document or record in which it is found. Rather, the classified information must be considered on the basis of its content.

(h) Classified nonrecord materials, including artifacts, shall be declassified as soon as they no longer meet the standards for classification under this order.

(i) When making decisions under sections 3.3, 3.4, and 3.5 of this order, agencies shall consider the final decisions of the Panel.

SEC. 3.2. *Transferred Records.*

(a) In the case of classified records transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this order.

(b) In the case of classified records that are not officially transferred as described in paragraph (a) of this section, but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such records shall be deemed to be the originating agency for purposes of this order. Such records may be declassified or downgraded by the agency in possession of the records after consultation with any other agency that has an interest in the subject matter of the records.

(c) Classified records accessioned into the National Archives shall be declassified or downgraded by the Archivist in accordance with this order, the directives issued pursuant to this order, agency declassification guides, and any existing procedural agreement between the Archivist and the relevant agency head.

(d) The originating agency shall take all reasonable steps to declassify classified information contained in

records determined to have permanent historical value before they are accessioned into the National Archives. However, the Archivist may require that classified records be accessioned into the National Archives when necessary to comply with the provisions of the Federal Records Act. This provision does not apply to records transferred to the Archivist pursuant to section 2203 of title 44, United States Code, or records for which the National Archives serves as the custodian of the records of an agency or organization that has gone out of existence.

(e) To the extent practicable, agencies shall adopt a system of records management that will facilitate the public release of documents at the time such documents are declassified pursuant to the provisions for automatic declassification in section 3.3 of this order.

SEC. 3.3 *Automatic Declassification.*

(a) Subject to paragraphs (b)–(d) and (g)–(j) of this section, all classified records that (1) are more than 25 years old and (2) have been determined to have permanent historical value under title 44, United States Code, shall be automatically declassified whether or not the records have been reviewed. All classified records shall be automatically declassified on December 31 of the year that is 25 years from the date of origin, except as provided in paragraphs (b)–(d) and (g)–(j) of this section. If the date of origin of an individual record cannot be readily determined, the date of original classification shall be used instead.

(b) An agency head may exempt from automatic declassification under paragraph (a) of this section specific information, the release of which should clearly and demonstrably be expected to:

(1) reveal the identity of a confidential human source, a human intelligence source, a relationship with an intelligence or security service of a foreign government or international organization, or a nonhuman intelligence source; or impair the effectiveness of an intelligence method currently in use, available for use, or under development;

(2) reveal information that would assist in the development, production, or use of weapons of mass destruction;

(3) reveal information that would impair U.S. cryptologic systems or activities;

(4) reveal information that would impair the application of state-of-the-art technology within a U.S. weapon system;

(5) reveal formally named or numbered U.S. military war plans that remain in effect, or reveal operational or tactical elements of prior plans that are contained in such active plans;

(6) reveal information, including foreign government information, that would cause serious harm to relations between the United States and a foreign government, or to ongoing diplomatic activities of the United States;

(7) reveal information that would impair the current ability of United States Government officials to protect the President, Vice President, and other protectees for whom protection services, in the interest of the national security, are authorized;

(8) reveal information that would seriously impair current national security emergency preparedness plans or reveal current vulnerabilities of systems, installations, or infrastructures relating to the national security; or

(9) violate a statute, treaty, or international agreement that does not permit the automatic or unilateral declassification of information at 25 years.

(c)(1) An agency head shall notify the Panel of any specific file series of records for which a review or assessment has determined that the information within that file series almost invariably falls within one or more of the exemption categories listed in paragraph (b) of this section and that the agency proposes to exempt from automatic declassification at 25 years.

(2) The notification shall include:

(A) a description of the file series;

(B) an explanation of why the information within the file series is almost invariably exempt from automatic declassification and why the information must remain classified for a longer period of time; and

(C) except when the information within the file series almost invariably identifies a confidential human source or a human intelligence source or key design concepts of weapons of mass destruction, a specific date or event for declassification of the information, not to exceed December 31 of the year that is 50 years from the date of origin of the records.

(3) The Panel may direct the agency not to exempt a designated file series or to declassify the information within that series at an earlier date than recommended. The agency head may appeal such a decision to the President through the National Security Advisor.

(4) File series exemptions approved by the President prior to December 31, 2008, shall remain valid without any additional agency action pending Panel review by the later of December 31, 2010, or December 31 of the year that is 10 years from the date of previous approval.

(d) The following provisions shall apply to the onset of automatic declassification:

(1) Classified records within an integral file block, as defined in this order, that are otherwise subject to automatic declassification under this section shall not be automatically declassified until December 31 of the year that is 25 years from the date of the most recent record within the file block.

(2) After consultation with the Director of the National Declassification Center (the Center) established by section 3.7 of this order and before the records are subject to automatic declassification, an agency head or senior agency official may delay automatic declassification for up to five additional years for classified information contained in media that make a review for possible declassification exemptions more difficult or costly.

(3) Other than for records that are properly exempted from automatic declassification, records containing classified information that originated with other agencies or the disclosure of which would affect the interests or activities of other agencies with respect to the classified information and could reasonably be expected to fall under one or more of the exemptions in paragraph (b) of this section shall be identified prior to the onset of automatic declassification for later referral to those agencies.

(A) The information of concern shall be referred by the Center established by section 3.7 of this order, or by the centralized facilities referred to in section 3.7(e) of this order, in a prioritized and scheduled manner determined by the Center.

(B) If an agency fails to provide a final determination on a referral made by the Center within 1 year of referral, or by the centralized facilities referred to in section 3.7(e) of this order within 3 years of referral, its equities in the referred records shall be automatically declassified.

(C) If any disagreement arises between affected agencies and the Center regarding the referral review period, the Director of the Information Security Oversight Office shall determine the appropriate period of review of referred records.

(D) Referrals identified prior to the establishment of the Center by section 3.7 of this order shall be subject to automatic declassification only in accordance with subparagraphs (d)(3)(A)–(C) of this section.

(4) After consultation with the Director of the Information Security Oversight Office, an agency head may delay automatic declassification for up to 3 years from the date of discovery of classified records that were inadvertently not reviewed prior to the effective date of automatic declassification.

(e) Information exempted from automatic declassification under this section shall remain subject to the mandatory and systematic declassification review provisions of this order.

(f) The Secretary of State shall determine when the United States should commence negotiations with the

appropriate officials of a foreign government or international organization of governments to modify any treaty or international agreement that requires the classification of information contained in records affected by this section for a period longer than 25 years from the date of its creation, unless the treaty or international agreement pertains to information that may otherwise remain classified beyond 25 years under this section.

(g) The Secretary of Energy shall determine when information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out provisions of the National Security Act of 1947, as amended, may be declassified. Unless otherwise determined, such information shall be declassified when comparable information concerning the United States nuclear program is declassified.

(h) Not later than 3 years from the effective date of this order, all records exempted from automatic declassification under paragraphs (b) and (c) of this section shall be automatically declassified on December 31 of a year that is no more than 50 years from the date of origin, subject to the following:

(1) Records that contain information the release of which should clearly and demonstrably be expected to reveal the following are exempt from automatic declassification at 50 years:

(A) the identity of a confidential human source or a human intelligence source; or

(B) key design concepts of weapons of mass destruction.

(2) In extraordinary cases, agency heads may, within 5 years of the onset of automatic declassification, propose to exempt additional specific information from declassification at 50 years.

(3) Records exempted from automatic declassification under this paragraph shall be automatically declassified on December 31 of a year that is no more than 75 years from the date of origin unless an agency head, within 5 years of that date, proposes to exempt specific information from declassification at 75 years and the proposal is formally approved by the Panel.

(i) Specific records exempted from automatic declassification prior to the establishment of the Center described in section 3.7 of this order shall be subject to the provisions of paragraph (h) of this section in a scheduled and prioritized manner determined by the Center.

(j) At least 1 year before information is subject to automatic declassification under this section, an agency head or senior agency official shall notify the Director of the Information Security Oversight Office, serving as Executive Secretary of the Panel, of any specific information that the agency proposes to exempt from automatic declassification under paragraphs (b) and (h) of this section.

(1) The notification shall include:

(A) a detailed description of the information, either by reference to information in specific records or in the form of a declassification guide;

(B) an explanation of why the information should be exempt from automatic declassification and must remain classified for a longer period of time; and

(C) a specific date or a specific and independently verifiable event for automatic declassification of specific records that contain the information proposed for exemption.

(2) The Panel may direct the agency not to exempt the information or to declassify it at an earlier date than recommended. An agency head may appeal such a decision to the President through the National Security Advisor. The information will remain classified while such an appeal is pending.

(k) For information in a file series of records determined not to have permanent historical value, the duration of classification beyond 25 years shall be the same as the disposition (destruction) date of those records in each Agency Records Control Schedule or General Records Schedule, although the duration of classification shall be extended if the record has been retained for business reasons beyond the scheduled disposition date.

SEC. 3.4. *Systematic Declassification Review.*

(a) Each agency that has originated classified information under this order or its predecessors shall establish and conduct a program for systematic declassification review for records of permanent historical value exempted from automatic declassification under section 3.3 of this order. Agencies shall prioritize their review of such records in accordance with priorities established by the Center.

(b) The Archivist shall conduct a systematic declassification review program for classified records:

(1) accessioned into the National Archives; (2) transferred to the Archivist pursuant to 44 U.S.C. 2203; and (3) for which the National Archives serves as the custodian for an agency or organization that has gone out of existence.

SEC. 3.5. *Mandatory Declassification Review.*

(a) Except as provided in paragraph (b) of this section, all information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

(1) the request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;

(2) the document or material containing the information responsive to the request is not contained within an operational file exempted from search and review, publication, and disclosure under 5 U.S.C. 552 in accordance with law; and

(3) the information is not the subject of pending litigation.

(b) Information originated by the incumbent President or the incumbent Vice President; the incumbent President's White House Staff or the incumbent Vice President's Staff; committees, commissions, or boards appointed by the incumbent President; or other entities within the Executive Office of the President that solely advise and assist the incumbent President is exempted from the provisions of paragraph (a) of this section. However, the Archivist shall have the authority to review, downgrade, and declassify papers or records of former Presidents and Vice Presidents under the control of the Archivist pursuant to 44 U.S.C. 2107, 2111, 2111 note, or 2203. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Agencies with primary subject matter interest shall be notified promptly of the Archivist's decision. Any final decision by the Archivist may be appealed by the requester or an agency to the Panel. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information that no longer meets the standards for classification under this order. They shall release this information unless withholding is otherwise authorized and warranted under applicable law.

(d) If an agency has reviewed the requested information for declassification within the past 2 years, the agency need not conduct another review and may instead inform the requester of this fact and the prior review decision and advise the requester of appeal rights provided under subsection (e) of this section.

(e) In accordance with directives issued pursuant to this order, agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They also shall provide a means for administratively appealing a denial of a mandatory review request, and for notifying the requester of the right to appeal a final agency decision to the Panel.

(f) After consultation with affected agencies, the Secretary of Defense shall develop special procedures for

the review of cryptologic information; the Director of National Intelligence shall develop special procedures for the review of information pertaining to intelligence sources, methods, and activities; and the Archivist shall develop special procedures for the review of information accessioned into the National Archives.

(g) Documents required to be submitted for prepublication review or other administrative process pursuant to an approved nondisclosure agreement are not covered by this section.

(h) This section shall not apply to any request for a review made to an element of the Intelligence Community that is made by a person other than an individual as that term is defined by 5 U.S.C. 552a(a)(2), or by a foreign government entity or any representative thereof.

SEC. 3.6. *Processing Requests and Reviews*. Notwithstanding section 4.1(i) of this order, in response to a request for information under the Freedom of Information Act, the Presidential Records Act, the Privacy Act of 1974, or the mandatory review provisions of this order:

(a) An agency may refuse to confirm or deny the existence or nonexistence of requested records whenever the fact of their existence or nonexistence is itself classified under this order or its predecessors.

(b) When an agency receives any request for documents in its custody that contain classified information that originated with other agencies or the disclosure of which would affect the interests or activities of other agencies with respect to the classified information, or identifies such documents in the process of implementing sections 3.3 or 3.4 of this order, it shall refer copies of any request and the pertinent documents to the originating agency for processing and may, after consultation with the originating agency, inform any requester of the referral unless such association is itself classified under this order or its predecessors. In cases in which the originating agency determines in writing that a response under paragraph (a) of this section is required, the referring agency shall respond to the requester in accordance with that paragraph.

(c) Agencies may extend the classification of information in records determined not to have permanent historical value or nonrecord materials, including artifacts, beyond the time frames established in sections 1.5(b) and 2.2(f) of this order, provided:

(1) the specific information has been approved pursuant to section 3.3(j) of this order for exemption from automatic declassification; and

(2) the extension does not exceed the date established in section 3.3(j) of this order.

SEC. 3.7. *National Declassification Center*. (a) There is established within the National Archives a National Declassification Center to streamline declassification processes, facilitate quality-assurance measures, and implement standardized training regarding the declassification of records determined to have permanent historical value. There shall be a Director of the Center who shall be appointed or removed by the Archivist in consultation with the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, and the Director of National Intelligence.

(b) Under the administration of the Director, the Center shall coordinate:

(1) timely and appropriate processing of referrals in accordance with section 3.3(d)(3) of this order for accessioned Federal records and transferred presidential records.

(2) general interagency declassification activities necessary to fulfill the requirements of sections 3.3 and 3.4 of this order;

(3) the exchange among agencies of detailed declassification guidance to enable the referral of records in accordance with section 3.3(d)(3) of this order;

(4) the development of effective, transparent, and standard declassification work processes, training, and quality assurance measures;

(5) the development of solutions to declassification challenges posed by electronic records, special media, and emerging technologies;

(6) the linkage and effective utilization of existing agency databases and the use of new technologies to document and make public declassification review decisions and support declassification activities under the purview of the Center; and

(7) storage and related services, on a reimbursable basis, for Federal records containing classified national security information.

(c) Agency heads shall fully cooperate with the Archivist in the activities of the Center and shall:

(1) provide the Director with adequate and current declassification guidance to enable the referral of records in accordance with section 3.3(d)(3) of this order; and

(2) upon request of the Archivist, assign agency personnel to the Center who shall be delegated authority by the agency head to review and exempt or declassify information originated by their agency contained in records accessioned into the National Archives, after consultation with subject-matter experts as necessary.

(d) The Archivist, in consultation with representatives of the participants in the Center and after input from the general public, shall develop priorities for declassification activities under the purview of the Center that take into account the degree of researcher interest and the likelihood of declassification.

(e) Agency heads may establish such centralized facilities and internal operations to conduct internal declassification reviews as appropriate to achieve optimized records management and declassification business processes. Once established, all referral processing of accessioned records shall take place at the Center, and such agency facilities and operations shall be coordinated with the Center to ensure the maximum degree of consistency in policies and procedures that relate to records determined to have permanent historical value.

(f) Agency heads may exempt from automatic declassification or continue the classification of their own originally classified information under section 3.3(a) of this order except that in the case of the Director of National Intelligence, the Director shall also retain such authority with respect to the Intelligence Community.

(g) The Archivist shall, in consultation with the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the Director of the Information Security Oversight Office, provide the National Security Advisor with a detailed concept of operations for the Center and a proposed implementing directive under section 5.1 of this order that reflects the coordinated views of the aforementioned agencies.

PART 4—SAFEGUARDING

SEC. 4.1. *General Restrictions on Access*.

(a) A person may have access to classified information provided that:

(1) a favorable determination of eligibility for access has been made by an agency head or the agency head's designee;

(2) the person has signed an approved nondisclosure agreement; and

(3) the person has a need-to-know the information.

(b) Every person who has met the standards for access to classified information in paragraph (a) of this section shall receive contemporaneous training on the proper safeguarding of classified information and on the criminal, civil, and administrative sanctions that may be imposed on an individual who fails to protect classified information from unauthorized disclosure.

(c) An official or employee leaving agency service may not remove classified information from the agency's control or direct that information be declassified in order to remove it from agency control.

(d) Classified information may not be removed from official premises without proper authorization.

(e) Persons authorized to disseminate classified information outside the executive branch shall ensure the protection of the information in a manner equivalent to that provided within the executive branch.

(f) Consistent with law, executive orders, directives, and regulations, an agency head or senior agency official or, with respect to the Intelligence Community, the Director of National Intelligence, shall establish uniform procedures to ensure that automated information systems, including networks and telecommunications systems, that collect, create, communicate, compute, disseminate, process, or store classified information:

(1) prevent access by unauthorized persons;

(2) ensure the integrity of the information; and

(3) to the maximum extent practicable, use:

(A) common information technology standards, protocols, and interfaces that maximize the availability of, and access to, the information in a form and manner that facilitates its authorized use; and

(B) standardized electronic formats to maximize the accessibility of information to persons who meet the criteria set forth in section 4.1(a) of this order.

(g) Consistent with law, executive orders, directives, and regulations, each agency head or senior agency official, or with respect to the Intelligence Community, the Director of National Intelligence, shall establish controls to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed under conditions that provide adequate protection and prevent access by unauthorized persons.

(h) Consistent with directives issued pursuant to this order, an agency shall safeguard foreign government information under standards that provide a degree of protection at least equivalent to that required by the government or international organization of governments that furnished the information. When adequate to achieve equivalency, these standards may be less restrictive than the safeguarding standards that ordinarily apply to U.S. ''Confidential'' information, including modified handling and transmission and allowing access to individuals with a need-to-know who have not otherwise been cleared for access to classified information or executed an approved nondisclosure agreement.

(i)(1) Classified information originating in one agency may be disseminated to another agency or U.S. entity by any agency to which it has been made available without the consent of the originating agency, as long as the criteria for access under section 4.1(a) of this order are met, unless the originating agency has determined that prior authorization is required for such dissemination and has marked or indicated such requirement on the medium containing the classified information in accordance with implementing directives issued pursuant to this order.

(2) Classified information originating in one agency may be disseminated by any other agency to which it has been made available to a foreign government in accordance with statute, this order, directives implementing this order, direction of the President, or with the consent of the originating agency. For the purposes of this section, ''foreign government'' includes any element of a foreign government, or an international organization of governments, or any element thereof.

(3) Documents created prior to the effective date of this order shall not be disseminated outside any other agency to which they have been made available without the consent of the originating agency. An agency head or senior agency official may waive this requirement for specific information that originated within that agency.

(4) For purposes of this section, the Department of Defense shall be considered one agency, except that any dissemination of information regarding intelligence sources, methods, or activities shall be consistent with directives issued pursuant to section 6.2(b) of this order.

(5) Prior consent of the originating agency is not required when referring records for declassification review that contain information originating in more than one agency.

SEC. 4.2 *Distribution Controls.*

(a) The head of each agency shall establish procedures in accordance with applicable law and consistent with directives issued pursuant to this order to ensure that classified information is accessible to the maximum extent possible by individuals who meet the criteria set forth in section 4.1(a) of this order.

(b) In an emergency, when necessary to respond to an imminent threat to life or in defense of the homeland, the agency head or any designee may authorize the disclosure of classified information (including information marked pursuant to section 4.1(i)(1) of this order) to an individual or individuals who are otherwise not eligible for access. Such actions shall be taken only in accordance with directives implementing this order and any procedure issued by agencies governing the classified information, which shall be designed to minimize the classified information that is disclosed under these circumstances and the number of individuals who receive it. Information disclosed under this provision or implementing directives and procedures shall not be deemed declassified as a result of such disclosure or subsequent use by a recipient. Such disclosures shall be reported promptly to the originator of the classified information. For purposes of this section, the Director of National Intelligence may issue an implementing directive governing the emergency disclosure of classified intelligence information.

(c) Each agency shall update, at least annually, the automatic, routine, or recurring distribution mechanism for classified information that it distributes. Recipients shall cooperate fully with distributors who are updating distribution lists and shall notify distributors whenever a relevant change in status occurs.

SEC. 4.3. *Special Access Programs.* (a) Establishment of special access programs. Unless otherwise authorized by the President, only the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, and the Director of National Intelligence, or the principal deputy of each, may create a special access program. For special access programs pertaining to intelligence sources, methods, and activities (but not including military operational, strategic, and tactical programs), this function shall be exercised by the Director of National Intelligence. These officials shall keep the number of these programs at an absolute minimum, and shall establish them only when the program is required by statute or upon a specific finding that:

(1) the vulnerability of, or threat to, specific information is exceptional; and

(2) the normal criteria for determining eligibility for access applicable to information classified at the same level are not deemed sufficient to protect the information from unauthorized disclosure.

(b) Requirements and limitations.

(1) Special access programs shall be limited to programs in which the number of persons who ordinarily will have access will be reasonably small and commensurate with the objective of providing enhanced protection for the information involved.

(2) Each agency head shall establish and maintain a system of accounting for special access programs consistent with directives issued pursuant to this order.

(3) Special access programs shall be subject to the oversight program established under section 5.4(d) of this order. In addition, the Director of the Information Security Oversight Office shall be afforded access to these programs, in accordance with the security requirements of each program, in order to perform the functions assigned to the Information Security Oversight Office under this order. An agency head may limit access to a special access program to the Director of the Information Security Oversight Office and no more than one other employee of the Information Security Oversight Office or, for special access programs that are extraordinarily sensitive and vulnerable, to the Director only.

(4) The agency head or principal deputy shall review annually each special access program to determine whether it continues to meet the requirements of this order.

(5) Upon request, an agency head shall brief the National Security Advisor, or a designee, on any or all of the agency's special access programs.

(6) For the purposes of this section, the term ''agency head'' refers only to the Secretaries of State, Defense, Energy, and Homeland Security, the Attorney General, and the Director of National Intelligence, or the principal deputy of each.

(c) Nothing in this order shall supersede any requirement made by or under 10 U.S.C. 119.

SEC. 4.4. *Access by Historical Researchers and Certain Former Government Personnel.*

(a) The requirement in section 4.1(a)(3) of this order that access to classified information may be granted only to individuals who have a need-to-know the information may be waived for persons who:

(1) are engaged in historical research projects;

(2) previously have occupied senior policy-making positions to which they were appointed or designated by the President or the Vice President; or

(3) served as President or Vice President.

(b) Waivers under this section may be granted only if the agency head or senior agency official of the originating agency:

(1) determines in writing that access is consistent with the interest of the national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this order; and

(3) limits the access granted to former Presidential appointees or designees and Vice Presidential appointees or designees to items that the person originated, reviewed, signed, or received while serving as a Presidential or Vice Presidential appointee or designee.

PART 5—IMPLEMENTATION AND REVIEW

SEC. 5.1. *Program Direction.* (a) The Director of the Information Security Oversight Office, under the direction of the Archivist and in consultation with the National Security Advisor, shall issue such directives as are necessary to implement this order. These directives shall be binding on the agencies. Directives issued by the Director of the Information Security Oversight Office shall establish standards for:

(1) classification, declassification, and marking principles;

(2) safeguarding classified information, which shall pertain to the handling, storage, distribution, transmittal, and destruction of and accounting for classified information;

(3) agency security education and training programs;

(4) agency self-inspection programs; and

(5) classification and declassification guides.

(b) The Archivist shall delegate the implementation and monitoring functions of this program to the Director of the Information Security Oversight Office.

(c) The Director of National Intelligence, after consultation with the heads of affected agencies and the Director of the Information Security Oversight Office, may issue directives to implement this order with respect to the protection of intelligence sources, methods, and activities. Such directives shall be consistent with this order and directives issued under paragraph (a) of this section.

SEC. 5.2. *Information Security Oversight Office.* (a) There is established within the National Archives an Information Security Oversight Office. The Archivist shall appoint the Director of the Information Security Oversight Office, subject to the approval of the President.

(b) Under the direction of the Archivist, acting in consultation with the National Security Advisor, the Director of the Information Security Oversight Office shall:

(1) develop directives for the implementation of this order;

(2) oversee agency actions to ensure compliance with this order and its implementing directives;

(3) review and approve agency implementing regulations prior to their issuance to ensure their consistency with this order and directives issued under section 5.1(a) of this order;

(4) have the authority to conduct on-site reviews of each agency's program established under this order, and to require of each agency those reports and information and other cooperation that may be necessary to fulfill its responsibilities. If granting access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior agency official shall submit a written justification recommending the denial of access to the President through the National Security Advisor within 60 days of the request for access. Access shall be denied pending the response;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend Presidential approval through the National Security Advisor;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the program established under this order;

(7) have the authority to prescribe, after consultation with affected agencies, standardization of forms or procedures that will promote the implementation of the program established under this order;

(8) report at least annually to the President on the implementation of this order; and

(9) convene and chair interagency meetings to discuss matters pertaining to the program established by this order.

SEC. 5.3. *Interagency Security Classification Appeals Panel.*

(a) Establishment and administration.

(1) There is established an Interagency Security Classification Appeals Panel. The Departments of State, Defense, and Justice, the National Archives, the Office of the Director of National Intelligence, and the National Security Advisor shall each be represented by a senior-level representative who is a full-time or permanent part-time Federal officer or employee designated to serve as a member of the Panel by the respective agency head. The President shall designate a Chair from among the members of the Panel.

(2) Additionally, the Director of the Central Intelligence Agency may appoint a temporary representative who meets the criteria in paragraph (a)(1) of this section to participate as a voting member in all Panel deliberations and associated support activities concerning classified information originated by the Central Intelligence Agency.

(3) A vacancy on the Panel shall be filled as quickly as possible as provided in paragraph (a)(1) of this section.

(4) The Director of the Information Security Oversight Office shall serve as the Executive Secretary of the Panel. The staff of the Information Security Oversight Office shall provide program and administrative support for the Panel.

(5) The members and staff of the Panel shall be required to meet eligibility for access standards in order to fulfill the Panel's functions.

(6) The Panel shall meet at the call of the Chair. The Chair shall schedule meetings as may be necessary for the Panel to fulfill its functions in a timely manner.

(7) The Information Security Oversight Office shall include in its reports to the President a summary of the Panel's activities.

(b) Functions. The Panel shall:

(1) decide on appeals by persons who have filed classification challenges under section 1.8 of this order;

(2) approve, deny, or amend agency exemptions from automatic declassification as provided in section 3.3 of this order;

(3) decide on appeals by persons or entities who have filed requests for mandatory declassification review under section 3.5 of this order; and

(4) appropriately inform senior agency officials and the public of final Panel decisions on appeals under sections 1.8 and 3.5 of this order.

(c) Rules and procedures. The Panel shall issue bylaws, which shall be published in the Federal Register.

The bylaws shall establish the rules and procedures that the Panel will follow in accepting, considering, and issuing decisions on appeals. The rules and procedures of the Panel shall provide that the Panel will consider appeals only on actions in which:

(1) the appellant has exhausted his or her administrative remedies within the responsible agency;

(2) there is no current action pending on the issue within the Federal courts; and

(3) the information has not been the subject of review by the Federal courts or the Panel within the past 2 years.

(d) Agency heads shall cooperate fully with the Panel so that it can fulfill its functions in a timely and fully informed manner. The Panel shall report to the President through the National Security Advisor any instance in which it believes that an agency head is not cooperating fully with the Panel.

(e) The Panel is established for the sole purpose of advising and assisting the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States. Panel decisions are committed to the discretion of the Panel, unless changed by the President.

(f) An agency head may appeal a decision of the Panel to the President through the National Security Advisor. The information shall remain classified pending a decision on the appeal.

SEC. 5.4. *General Responsibilities*. Heads of agencies that originate or handle classified information shall:

(a) demonstrate personal commitment and commit senior management to the successful implementation of the program established under this order;

(b) commit necessary resources to the effective implementation of the program established under this order;

(c) ensure that agency records systems are designed and maintained to optimize the appropriate sharing and safeguarding of classified information, and to facilitate its declassification under the terms of this order when it no longer meets the standards for continued classification; and

(d) designate a senior agency official to direct and administer the program, whose responsibilities shall include:

(1) overseeing the agency's program established under this order, provided an agency head may designate a separate official to oversee special access programs authorized under this order. This official shall provide a full accounting of the agency's special access programs at least annually;

(2) promulgating implementing regulations, which shall be published in the Federal Register to the extent that they affect members of the public;

(3) establishing and maintaining security education and training programs;

(4) establishing and maintaining an ongoing self-inspection program, which shall include the regular reviews of representative samples of the agency's original and derivative classification actions, and shall authorize appropriate agency officials to correct misclassification actions not covered by sections 1.7(c) and 1.7(d) of this order; and reporting annually to the Director of the Information Security Oversight Office on the agency's self-inspection program;

(5) establishing procedures consistent with directives issued pursuant to this order to prevent unnecessary access to classified information, including procedures that:

(A) require that a need for access to classified information be established before initiating administrative clearance procedures; and

(B) ensure that the number of persons granted access to classified information meets the mission needs of the agency while also satisfying operational and security requirements and needs;

(6) developing special contingency plans for the safeguarding of classified information used in or near hostile or potentially hostile areas;

(7) ensuring that the performance contract or other system used to rate civilian or military personnel performance includes the designation and management of classified information as a critical element or item to be evaluated in the rating of:

(A) original classification authorities;

(B) security managers or security specialists; and

(C) all other personnel whose duties significantly involve the creation or handling of classified information, including personnel who regularly apply derivative classification markings;

(8) accounting for the costs associated with the implementation of this order, which shall be reported to the Director of the Information Security Oversight Office for publication;

(9) assigning in a prompt manner agency personnel to respond to any request, appeal, challenge, complaint, or suggestion arising out of this order that pertains to classified information that originated in a component of the agency that no longer exists and for which there is no clear successor in function; and

(10) establishing a secure capability to receive information, allegations, or complaints regarding over-classification or incorrect classification within the agency and to provide guidance to personnel on proper classification as needed.

SEC. 5.5. *Sanctions*. (a) If the Director of the Information Security Oversight Office finds that a violation of this order or its implementing directives has occurred, the Director shall make a report to the head of the agency or to the senior agency official so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, certificate holders, and grantees shall be subject to appropriate sanctions if they knowingly, willfully, or negligently:

(1) disclose to unauthorized persons information properly classified under this order or predecessor orders;

(2) classify or continue the classification of information in violation of this order or any implementing directive;

(3) create or continue a special access program contrary to the requirements of this order; or

(4) contravene any other provision of this order or its implementing directives.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) The agency head, senior agency official, or other supervisory official shall, at a minimum, promptly remove the classification authority of any individual who demonstrates reckless disregard or a pattern of error in applying the classification standards of this order.

(e) The agency head or senior agency official shall:

(1) take appropriate and prompt corrective action when a violation or infraction under paragraph (b) of this section occurs; and

(2) notify the Director of the Information Security Oversight Office when a violation under paragraph (b)(1), (2), or (3) of this section occurs.

PART 6—GENERAL PROVISIONS

SEC. 6.1. *Definitions*. For purposes of this order:

(a) ''Access'' means the ability or opportunity to gain knowledge of classified information.

(b) ''Agency'' means any ''Executive agency,'' as defined in 5 U.S.C. 105; any ''Military department'' as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

(c) ''Authorized holder'' of classified information means anyone who satisfies the conditions for access stated in section 4.1(a) of this order.

(d) ''Automated information system'' means an assembly of computer hardware, software, or firmware configured to collect, create, communicate, compute, disseminate, process, store, or control data or information.

(e) ''Automatic declassification'' means the declassification of information based solely upon:

(1) the occurrence of a specific date or event as determined by the original classification authority; or

(2) the expiration of a maximum time frame for duration of classification established under this order.

(f) ''Classification'' means the act or process by which information is determined to be classified information.

(g) ''Classification guidance'' means any instruction or source that prescribes the classification of specific information.

(h) ''Classification guide'' means a documentary form of classification guidance issued by an original classification authority that identifies the elements of information regarding a specific subject that must be classified and establishes the level and duration of classification for each such element.

(i) ''Classified national security information'' or ''classified information'' means information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(j) ''Compilation'' means an aggregation of preexisting unclassified items of information.

(k) ''Confidential source'' means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation that the information or relationship, or both, are to be held in confidence.

(*l*) ''Damage to the national security'' means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.

(m) ''Declassification'' means the authorized change in the status of information from classified information to unclassified information.

(n) ''Declassification guide'' means written instructions issued by a declassification authority that describes the elements of information regarding a specific subject that may be declassified and the elements that must remain classified.

(*o*) ''Derivative classification'' means the incorporating, paraphrasing, restating, or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.

(p) ''Document'' means any recorded information, regardless of the nature of the medium or the method or circumstances of recording.

(q) ''Downgrading'' means a determination by a declassification authority that information classified and safeguarded at a specified level shall be classified and safeguarded at a lower level.

(r) ''File series'' means file units or documents arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access or use.

(s) ''Foreign government information'' means:

(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) information produced by the United States Government pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) information received and treated as ''foreign government information'' under the terms of a predecessor order.

(t) ''Information'' means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, is produced by or for, or is under the control of the United States Government.

(u) ''Infraction'' means any knowing, willful, or negligent action contrary to the requirements of this order or its implementing directives that does not constitute a ''violation,'' as defined below.

(v) ''Integral file block'' means a distinct component of a file series, as defined in this section, that should be maintained as a separate unit in order to ensure the integrity of the records. An integral file block may consist of a set of records covering either a specific topic or a range of time, such as a Presidential administration or a 5-year retirement schedule within a specific file series that is retired from active use as a group. For purposes of automatic declassification, integral file blocks shall contain only records dated within 10 years of the oldest record in the file block.

(w) ''Integrity'' means the state that exists when information is unchanged from its source and has not been accidentally or intentionally modified, altered, or destroyed.

(x) ''Intelligence'' includes foreign intelligence and counterintelligence as defined by Executive Order 12333 of December 4, 1981, as amended, or by a successor order.

(y) ''Intelligence activities'' means all activities that elements of the Intelligence Community are authorized to conduct pursuant to law or Executive Order 12333, as amended, or a successor order.

(z) ''Intelligence Community'' means an element or agency of the U.S. Government identified in or designated pursuant to section 3(4) of the National Security Act of 1947, as amended, or section 3.5(h) of Executive Order 12333, as amended.

(aa) ''Mandatory declassification review'' means the review for declassification of classified information in response to a request for declassification that meets the requirements under section 3.5 of this order.

(bb) ''Multiple sources'' means two or more source documents, classification guides, or a combination of both.

(cc) ''National security'' means the national defense or foreign relations of the United States.

(dd) ''Need-to-know'' means a determination within the executive branch in accordance with directives issued pursuant to this order that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(ee) ''Network'' means a system of two or more computers that can exchange data or information.

(ff) ''Original classification'' means an initial determination that information requires, in the interest of the national security, protection against unauthorized disclosure.

(gg) ''Original classification authority'' means an individual authorized in writing, either by the President, the Vice President, or by agency heads or other officials designated by the President, to classify information in the first instance.

(hh) ''Records'' means the records of an agency and Presidential papers or Presidential records, as those terms are defined in title 44, United States Code, including those created or maintained by a government contractor, licensee, certificate holder, or grantee that are subject to the sponsoring agency's control under the terms of the contract, license, certificate, or grant.

(ii) ''Records having permanent historical value'' means Presidential papers or Presidential records and the records of an agency that the Archivist has determined should be maintained permanently in accordance with title 44, United States Code.

(jj) ''Records management'' means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and

proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

(kk) ''Safeguarding'' means measures and controls that are prescribed to protect classified information.

(*ll*) ''Self-inspection'' means the internal review and evaluation of individual agency activities and the agency as a whole with respect to the implementation of the program established under this order and its implementing directives.

(mm) ''Senior agency official'' means the official designated by the agency head under section 5.4(d) of this order to direct and administer the agency's program under which information is classified, safeguarded, and declassified.

(nn) ''Source document'' means an existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.

(*oo*) ''Special access program'' means a program established for a specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.

(pp) ''Systematic declassification review'' means the review for declassification of classified information contained in records that have been determined by the Archivist to have permanent historical value in accordance with title 44, United States Code.

(qq) ''Telecommunications'' means the preparation, transmission, or communication of information by electronic means.

(rr) ''Unauthorized disclosure'' means a communication or physical transfer of classified information to an unauthorized recipient.

(ss) ''U.S. entity'' includes:

(1) State, local, or tribal governments;

(2) State, local, and tribal law enforcement and firefighting entities;

(3) public health and medical entities;

(4) regional, state, local, and tribal emergency management entities, including State Adjutants General and other appropriate public safety entities; or

(5) private sector entities serving as part of the nation's Critical Infrastructure/Key Resources.

(tt) ''Violation'' means:

(1) any knowing, willful, or negligent action that could reasonably be expected to result in an unauthorized disclosure of classified information;

(2) any knowing, willful, or negligent action to classify or continue the classification of information contrary to the requirements of this order or its implementing directives; or

(3) any knowing, willful, or negligent action to create or continue a special access program contrary to the requirements of this order.

(uu) ''Weapons of mass destruction'' means any weapon of mass destruction as defined in 50 U.S.C. 1801(p).

SEC. 6.2. *General Provisions*. (a) Nothing in this order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended, or the National Security Act of 1947, as amended. ''Restricted Data'' and ''Formerly Restricted Data'' shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Director of National Intelligence may, with respect to the Intelligence Community and after consultation with the heads of affected departments and agencies, issue such policy directives and guidelines as the Director of National Intelligence deems necessary to implement this order with respect to the classification and declassification of all intelligence and intelligence-related information, and for access to and dissemination of all intelligence and intelligence-related information, both in its final form and in the form when initially gathered. Procedures or other guidance issued by Intelligence Community element heads shall be in accordance with such policy directives or guidelines issued by the Director of National Intelligence. Any such policy directives or guidelines issued by the Director of National Intelligence shall be in accordance with directives issued by the Director of the Information Security Oversight Office under section 5.1(a) of this order.

(c) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(d) Nothing in this order limits the protection afforded any information by other provisions of law, including the Constitution, Freedom of Information Act exemptions, the Privacy Act of 1974, and the National Security Act of 1947, as amended. This order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. The foregoing is in addition to the specific provisos set forth in sections 1.1(b), 3.1(c) and 5.3(e) of this order.

(e) Nothing in this order shall be construed to obligate action or otherwise affect functions by the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented subject to the availability of appropriations.

(g) Executive Order 12958 of April 17, 1995, and amendments thereto, including Executive Order 13292 of March 25, 2003, are hereby revoked as of the effective date of this order.

SEC. 6.3. *Effective Date*. This order is effective 180 days from the date of this order, except for sections 1.7, 3.3, and 3.7, which are effective immediately.

SEC. 6.4. *Publication*. The Archivist of the United States shall publish this Executive Order in the Federal Register.

BARACK OBAMA.

IMPLEMENTATION OF THE EXECUTIVE ORDER, ''CLASSIFIED NATIONAL SECURITY INFORMATION''

Memorandum of President of the United States, Dec. 29, 2009, 75 F.R. 733, provided:

Memorandum for the Heads of Executive Departments and Agencies

Today I have signed an executive order [Ex. Ord. No. 13526, set out above] entitled, ''Classified National Security Information'' (the ''order''), which substantially advances my goals for reforming the security classification and declassification processes. I expect that the order will produce measurable progress towards greater openness and transparency in the Government's classification and declassification programs while protecting the Government's legitimate interests, and I will closely monitor the results. I also look forward to reviewing recommendations from the study that the National Security Advisor will undertake in cooperation with the Public Interest Declassification Board to design a more fundamental transformation of the security classification system. To further assist in fulfilling the goal of measurable progress toward greater openness and transparency, I hereby direct the following actions.

1. *Initial Implementation Efforts*.

Successful implementation of the order requires personal commitment from the heads of departments and agencies, as well as their senior officials. It also requires effective security education and training programs, self-inspection programs, and measures designed to hold personnel accountable.

In accordance with section 5.4 of the order, the head of each department and agency that creates or handles classified information shall provide the Director of the Information Security Oversight Office (ISOO) a copy of the department or agency regulations implementing the requirements of the order. Such regulations shall be issued in final form within 180 days of ISOO's publi-

cation of its implementing directive for the order. The Director of ISOO shall consider agency actions to implement the requirements of section 5.4 of the order as a key element in planning oversight of agencies. Each senior agency official designated under section 5.4(d) of the order shall provide ISOO with updates concerning agency plans and other actions to implement the requirements of the order. The Director of ISOO shall publish a periodic status report on agency implementation.

2. *Declassification of Records of Permanent Historical Value.*

Under the direction of the National Declassification Center (NDC), and utilizing recommendations of an ongoing Business Process Review in support of the NDC, referrals and quality assurance problems within a backlog of more than 400 million pages of accessioned Federal records previously subject to automatic declassification shall be addressed in a manner that will permit public access to all declassified records from this backlog no later than December 31, 2013. In order to promote the efficient and effective utilization of finite resources available for declassification, further referrals of these records are not required except for those containing information that would clearly and demonstrably reveal: (a) the identity of a confidential human source or a human intelligence source; or (b) key design concepts of weapons of mass destruction.

The Secretaries of State, Defense, and Energy, and the Director of National Intelligence shall provide the Archivist of the United States with sufficient guidance to complete this task. The Archivist shall make public a report on the status of the backlog every 6 months.

3. *Delegation of Original Classification Authority.*

Delegations of original classification authority shall be limited to the minimum necessary to implement the order and only those individuals or positions with a demonstrable and continuing need to exercise such authority shall be delegated original classification authority.

Accordingly, heads of departments and agencies with original classification authority shall commence a review to ensure that all delegations of original classification authority are so limited and otherwise in accordance with section 1.3(c) of the order. Each department and agency shall submit a report on the results of this review to the Director of ISOO within 120 days of the date of this memorandum.

4. *Promotion of New Technologies to Support Declassification.*

Striking the critical balance between openness and secrecy is a difficult but necessary part of our democratic form of government. Striking this balance becomes more difficult as the volume and complexity of the information increases. Improving the capability of departments and agencies to identify still-sensitive information and to make declassified information available to the public are integral parts of the classification system.

Therefore, I am directing that the Secretary of Defense and the Director of National Intelligence each support research to assist the NDC in addressing the cross-agency challenges associated with declassification.

5. *Publication.* The Archivist of the United States is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

ORIGINAL CLASSIFICATION AUTHORITY

Order of President of the United States, dated Dec. 29, 2009, 75 F.R. 735, provided:

Pursuant to the provisions of section 1.3 of the Executive Order issued today [Ex. Ord. No. 13526, set out above], entitled ''Classified National Security Information'' (Executive Order), I hereby designate the following officials to classify information originally as ''Top Secret'' or ''Secret'':

TOP SECRET

Executive Office of the President:

The Assistant to the President and Chief of Staff

The Assistant to the President for National Security Affairs (National Security Advisor)

The Assistant to the President for Homeland Security and Counterterrorism

The Director of National Drug Control Policy

The Director, Office of Science and Technology Policy

The Chair or Co-Chairs, President's Intelligence Advisory Board

Departments and Agencies:

The Secretary of State

The Secretary of the Treasury

The Secretary of Defense

The Attorney General

The Secretary of Energy

The Secretary of Homeland Security

The Director of National Intelligence

The Secretary of the Army

The Secretary of the Navy

The Secretary of the Air Force

The Chairman, Nuclear Regulatory Commission

The Director of the Central Intelligence Agency

The Administrator of the National Aeronautics and Space Administration

The Director, Information Security Oversight Office

SECRET

Executive Office of the President:

The United States Trade Representative

Departments and Agencies:

The Secretary of Agriculture

The Secretary of Commerce

The Secretary of Health and Human Services

The Secretary of Transportation

The Administrator of the United States Agency for International Development

The Administrator of the Environmental Protection Agency

Any delegation of this authority shall be in accordance with section 1.3(c) of the Executive Order, except that the Director of the Information Security Oversight Office, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency may not delegate the authority granted in this order. If an agency head without original classification authority under this order, or otherwise delegated in accordance with section 1.3(c) of the Executive Order, has an exceptional need to classify information originated by their agency, the matter shall be referred to the agency head with appropriate subject matter interest and classification authority in accordance with section 1.3(e) of the Executive Order. If the agency with appropriate subject matter interest and classification authority cannot readily be determined, the matter shall be referred to the Director of the Information Security Oversight Office.

Presidential designations ordered prior to the issuance of the Executive Order are revoked as of the date of this order. However, delegations of authority to classify information originally that were made in accordance with the provisions of section 1.4 of Executive Order 12958 of April 17, 1995, as amended, by officials designated under this order shall continue in effect, provided that the authority of such officials is delegable under this order.

This order shall be published in the Federal Register.

BARACK OBAMA.

PRIOR PRESIDENTIAL DESIGNATIONS TO CLASSIFY NATIONAL SECURITY INFORMATION WERE CONTAINED IN THE FOLLOWING:

Ex. Ord. No. 13010, § 7(b), July 15, 1996, 61 F.R. 37347, as amended, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

Order of President of the United States, dated Oct. 13, 1995, 60 F.R. 53845, formerly set out as a note under this section.

Order of President of the United States, dated Feb. 27, 1996, 61 F.R. 7977, formerly set out as a note under this section.

Order of President of the United States, dated Feb. 26, 1997, 62 F.R. 9349, formerly set out as a note under this section.

Order of President of the United States, dated Dec. 10, 2001, 66 F.R. 64347, formerly set out as a note under this section.

Order of President of the United States, dated May 6, 2002, 67 F.R. 31109, formerly set out as a note under this section.

Order of President of the United States, dated Sept. 26, 2002, 67 F.R. 61465, formerly set out as a note under this section.

Order of President of the United States, dated Sept. 17, 2003, 68 F.R. 55257, formerly set out as a note under this section.

Order of President of the United States, dated Apr. 21, 2005, 70 F.R. 21609, formerly set out as a note under this section.

§ 435a. Limitation on handling, retention, and storage of certain classified materials by the Department of State

(a) Certification regarding full compliance with requirements

The Director of Central Intelligence shall certify to the appropriate committees of Congress whether or not each covered element of the Department of State is in full compliance with all applicable directives of the Director of Central Intelligence relating to the handling, retention, or storage of covered classified material.

(b) Limitation on certification

The Director of Central Intelligence may not certify a covered element of the Department of State as being in full compliance with the directives referred to in subsection (a) of this section if the covered element is currently subject to a waiver of compliance with respect to any such directive.

(c) Report on noncompliance

Whenever the Director of Central Intelligence determines that a covered element of the Department of State is not in full compliance with any directive referred to in subsection (a) of this section, the Director shall promptly notify the appropriate committees of Congress of such determination.

(d) Effects of certification of non-full compliance

(1) Subject to subsection (e) of this section, effective as of January 1, 2001, a covered element of the Department of State may not retain or store covered classified material unless the Director has certified under subsection (a) of this section as of such date that the covered element is in full compliance with the directives referred to in subsection (a) of this section.

(2) If the prohibition in paragraph (1) takes effect in accordance with that paragraph, the prohibition shall remain in effect until the date on which the Director certifies under subsection (a) of this section that the covered element involved is in full compliance with the directives referred to in that subsection.

(e) Waiver by Director of Central Intelligence

(1) The Director of Central Intelligence may waive the applicability of the prohibition in subsection (d) of this section to an element of the Department of State otherwise covered by such prohibition if the Director determines that the waiver is in the national security interests of the United States.

(2) The Director shall submit to appropriate committees of Congress a report on each exercise of the waiver authority in paragraph (1).

(3) Each report under paragraph (2) with respect to the exercise of authority under paragraph (1) shall set forth the following:

(A) The covered element of the Department of State addressed by the waiver.

(B) The reasons for the waiver.

(C) The actions that will be taken to bring such element into full compliance with the directives referred to in subsection (a) of this section, including a schedule for completion of such actions.

(D) The actions taken by the Director to protect any covered classified material to be handled, retained, or stored by such element pending achievement of full compliance of such element with such directives.

(f) Definitions

In this section:

(1) The term ''appropriate committees of Congress'' means the following:

(A) The Select Committee on Intelligence and the Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives.

(2) The term ''covered classified material'' means any material classified at the Sensitive Compartmented Information (SCI) level.

(3) The term ''covered element of the Department of State'' means each element of the Department of State that handles, retains, or stores covered classified material.

(4) The term ''material'' means any data, regardless of physical form or characteristic, including written or printed matter, automated information systems storage media, maps, charts, paintings, drawings, films, photographs, engravings, sketches, working notes, papers, reproductions of any such things by any means or process, and sound, voice, magnetic, or electronic recordings.

(5) The term ''Sensitive Compartmented Information (SCI) level'', in the case of classified material, means a level of classification for information in such material concerning or derived from intelligence sources, methods, or analytical processes that requires such information to be handled within formal access control systems established by the Director of Central Intelligence.

(Pub. L. 106–567, title III, § 309, Dec. 27, 2000, 114 Stat. 2840.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2001, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Cen-

tral Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of this title.

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 435b. Security clearances

(a) Definitions

In this section:

(1) The term ''agency'' means—

(A) an executive agency (as that term is defined in section 105 of title 5);

(B) a military department (as that term is defined in section 102 of title 5); and

(C) an element of the intelligence community.

(2) The term ''authorized investigative agency'' means an agency designated by the head of the agency selected pursuant to subsection (b) of this section to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(3) The term ''authorized adjudicative agency'' means an agency authorized by law, regulation, or direction of the Director of National Intelligence to determine eligibility for access to classified information in accordance with Executive Order 12968.

(4) The term ''highly sensitive program'' means—

(A) a government program designated as a Special Access Program (as that term is defined in section 4.1(h) of Executive Order 12958 or any successor Executive order); or

(B) a government program that applies restrictions required for—

(i) restricted data (as that term is defined in section 2014(y) of title 42;[1] or

(ii) other information commonly referred to as ''sensitive compartmented information''.

(5) The term ''current investigation file'' means, with respect to a security clearance, a file on an investigation or adjudication that has been conducted during—

(A) the 5-year period beginning on the date the security clearance was granted, in the case of a Top Secret Clearance, or the date access was granted to a highly sensitive program;

(B) the 10-year period beginning on the date the security clearance was granted in the case of a Secret Clearance; and

(C) the 15-year period beginning on the date the security clearance was granted in the case of a Confidential Clearance.

(6) The term ''personnel security investigation'' means any investigation required for the purpose of determining the eligibility of any military, civilian, or government contractor personnel to access classified information.

(7) The term ''periodic reinvestigations'' means investigations conducted for the purpose of updating a previously completed background investigation—

(A) every 5 years in the case of a top secret clearance or access to a highly sensitive program;

(B) every 10 years in the case of a secret clearance; or

(C) every 15 years in the case of a Confidential Clearance.

(8) The term ''appropriate committees of Congress'' means—

(A) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Homeland Security, Government Reform, and the Judiciary of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committees on Armed Services, Homeland Security and Governmental Affairs, and the Judiciary of the Senate.

(b) Selection of entity

Not later than 90 days after December 17, 2004, the President shall select a single department, agency, or element of the executive branch to be responsible for—

(1) directing day-to-day oversight of investigations and adjudications for personnel security clearances, including for highly sensitive programs, throughout the United States Government;

(2) developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of security clearances and determinations for access to highly sensitive programs, including the standardization of security questionnaires, financial disclosure requirements for security clearance applicants, and polygraph policies and procedures;

(3) serving as the final authority to designate an authorized investigative agency or authorized adjudicative agency;

(4) ensuring reciprocal recognition of access to classified information among the agencies of the United States Government, including acting as the final authority to arbitrate and resolve disputes involving the reciprocity of security clearances and access to highly sensitive programs pursuant to subsection (d) of this section;

(5) ensuring, to the maximum extent practicable, that sufficient resources are available in each agency to achieve clearance and investigative program goals; and

(6) reviewing and coordinating the development of tools and techniques for enhancing the conduct of investigations and granting of clearances.

(c) Performance of security clearance investigations

(1) Notwithstanding any other provision of law, not later than 180 days after December 17, 2004, the President shall, in consultation with the head of the entity selected pursuant to subsection (b) of this section, select a single agency

[1] So in original. There probably should be a closing parenthesis before the semicolon.

of the executive branch to conduct, to the maximum extent practicable, security clearance investigations of employees and contractor personnel of the United States Government who require access to classified information and to provide and maintain all security clearances of such employees and contractor personnel. The head of the entity selected pursuant to subsection (b) of this section may designate other agencies to conduct such investigations if the head of the entity selected pursuant to subsection (b) of this section considers it appropriate for national security and efficiency purposes.

(2) The agency selected under paragraph (1) shall—

(A) take all necessary actions to carry out the requirements of this section, including entering into a memorandum of understanding with any agency carrying out responsibilities relating to security clearances or security clearance investigations before December 17, 2004;

(B) as soon as practicable, integrate reporting of security clearance applications, security clearance investigations, and determinations of eligibility for security clearances, with the database required by subsection (e) of this section; and

(C) ensure that security clearance investigations are conducted in accordance with uniform standards and requirements established under subsection (b) of this section, including uniform security questionnaires and financial disclosure requirements.

(d) Reciprocity of security clearance and access determinations

(1) All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies.

(2) All security clearance background investigations initiated by an authorized investigative agency shall be transferable to any other authorized investigative agency.

(3)(A) An authorized investigative agency or authorized adjudicative agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed requirements specified in Executive Orders establishing security requirements for access to classified information without the approval of the head of the entity selected pursuant to subsection (b) of this section.

(B) Notwithstanding subparagraph (A), the head of the entity selected pursuant to subsection (b) of this section may establish such additional requirements as the head of such entity considers necessary for national security purposes.

(4) An authorized investigative agency or authorized adjudicative agency may not conduct an investigation for purposes of determining whether to grant a security clearance to an individual where a current investigation or clearance of equal level already exists or has been granted by another authorized adjudicative agency.

(5) The head of the entity selected pursuant to subsection (b) of this section may disallow the reciprocal recognition of an individual security clearance by an agency under this section on a case-by-case basis if the head of the entity selected pursuant to subsection (b) of this section determines that such action is necessary for national security purposes.

(6) The head of the entity selected pursuant to subsection (b) of this section shall establish a review procedure by which agencies can seek review of actions required under this section.

(e) Database on security clearances

(1) Not later than 12 months after December 17, 2004, the Director of the Office of Personnel Management shall, in cooperation with the heads of the entities selected pursuant to subsections (b) and (c) of this section, establish and commence operating and maintaining an integrated, secure, database into which appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or government contractor personnel shall be entered from all authorized investigative and adjudicative agencies.

(2) The database under this subsection shall function to integrate information from existing Federal clearance tracking systems from other authorized investigative and adjudicative agencies into a single consolidated database.

(3) Each authorized investigative or adjudicative agency shall check the database under this subsection to determine whether an individual the agency has identified as requiring a security clearance has already been granted or denied a security clearance, or has had a security clearance revoked, by any other authorized investigative or adjudicative agency.

(4) The head of the entity selected pursuant to subsection (b) of this section shall evaluate the extent to which an agency is submitting information to, and requesting information from, the database under this subsection as part of a determination of whether to certify the agency as an authorized investigative agency or authorized adjudicative agency.

(5) The head of the entity selected pursuant to subsection (b) of this section may authorize an agency to withhold information about certain individuals from the database under this subsection if the head of the entity considers it necessary for national security purposes.

(f) Evaluation of use of available technology in clearance investigations and adjudications

(1) The head of the entity selected pursuant to subsection (b) of this section shall evaluate the use of available information technology and databases to expedite investigative and adjudicative processes for all and to verify standard information submitted as part of an application for a security clearance.

(2) The evaluation shall assess the application of the technologies described in paragraph (1) for—

(A) granting interim clearances to applicants at the secret, top secret, and special access program levels before the completion of the appropriate full investigation;

(B) expediting investigations and adjudications of security clearances, including ver-

ification of information submitted by the applicant;

(C) ongoing verification of suitability of personnel with security clearances in effect for continued access to classified information;

(D) use of such technologies to augment periodic reinvestigations;

(E) assessing the impact of the use of such technologies on the rights of applicants to verify, correct, or challenge information obtained through such technologies; and

(F) such other purposes as the head of the entity selected pursuant to subsection (b) of this section considers appropriate.

(3) An individual subject to verification utilizing the technology described in paragraph (1) shall be notified of such verification, shall provide consent to such use, and shall have access to data being verified in order to correct errors or challenge information the individual believes is incorrect.

(4) Not later than one year after December 17, 2004, the head of the entity selected pursuant to subsection (b) of this section shall submit to the President and the appropriate committees of Congress a report on the results of the evaluation, including recommendations on the use of technologies described in paragraph (1).

(g) Reduction in length of personnel security clearance process

(1) The head of the entity selected pursuant to subsection (b) of this section shall, within 90 days of selection under that subsection, develop, in consultation with the appropriate committees of Congress and each authorized adjudicative agency, a plan to reduce the length of the personnel security clearance process.

(2)(A) To the extent practical the plan under paragraph (1) shall require that each authorized adjudicative agency make a determination on at least 90 percent of all applications for a personnel security clearance within an average of 60 days after the date of receipt of the completed application for a security clearance by an authorized investigative agency. Such 60-day average period shall include—

(i) a period of not longer than 40 days to complete the investigative phase of the clearance review; and

(ii) a period of not longer than 20 days to complete the adjudicative phase of the clearance review.

(B) Determinations on clearances not made within 60 days shall be made without delay.

(3)(A) The plan under paragraph (1) shall take effect 5 years after December 17, 2004.

(B) During the period beginning on a date not later than 2 years after December 17, 2004, and ending on the date on which the plan under paragraph (1) takes effect, each authorized adjudicative agency shall make a determination on at least 80 percent of all applications for a personnel security clearance pursuant to this section within an average of 120 days after the date of receipt of the application for a security clearance by an authorized investigative agency. Such 120-day average period shall include—

(i) a period of not longer than 90 days to complete the investigative phase of the clearance review; and

(ii) a period of not longer than 30 days to complete the adjudicative phase of the clearance review.

(h) Reports

(1) Not later than February 15, 2006, and annually thereafter through 2011, the head of the entity selected pursuant to subsection (b) of this section shall submit to the appropriate committees of Congress a report on the progress made during the preceding year toward meeting the requirements of this section.

(2) Each report shall include, for the period covered by such report—

(A) the periods of time required by the authorized investigative agencies and authorized adjudicative agencies for conducting investigations, adjudicating cases, and granting clearances, from date of submission to ultimate disposition and notification to the subject and the subject's employer;

(B) a discussion of any impediments to the smooth and timely functioning of the requirements of this section; and

(C) such other information or recommendations as the head of the entity selected pursuant to subsection (b) of this section considers appropriate.

(i) Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each fiscal year thereafter for the implementation, maintenance, and operation of the database required by subsection (e) of this section.

(Pub. L. 108–458, title III, § 3001, Dec. 17, 2004, 118 Stat. 3705.)

REFERENCES IN TEXT

Executive Order 12968, referred to in subsec. (a)(3), is set out as a note under section 435 of this title.

Executive Order 12958, referred to in subsec. (a)(4)(A), which was formerly set out as a note under section 435 of this title, was revoked by Ex. Ord. No. 13526, § 6.2(g), Dec. 29, 2009, 75 F.R. 731.

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS

Pub. L. 108–458, title VII, § 7601(c), Dec. 17, 2004, 118 Stat. 3857, provided that:

''(1) DEFINITION.—In this section, the term 'major party' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986 [26 U.S.C. 9002(6)].

''(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

''(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.''

§ 435c. Security clearances; limitations

(a) Definitions

In this section:

(1) Controlled substance

The term ''controlled substance'' has the meaning given that term in section 802 of title 21.

(2) Covered person

The term ''covered person'' means—

(A) an officer or employee of a Federal agency;

(B) a member of the Army, Navy, Air Force, or Marine Corps who is on active duty or is in an active status; and

(C) an officer or employee of a contractor of a Federal agency.

(3) Restricted Data

The term ''Restricted Data'' has the meaning given that term in section 2014 of title 42.

(4) Special access program

The term ''special access program'' has the meaning given that term in section 4.1 of Executive Order No. 12958 (60 Fed. Reg. 19825).

(b) Prohibition

After January 1, 2008, the head of a Federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict (as defined in section 802(1) of title 21).

(c) Disqualification

(1) In general

After January 1, 2008, absent an express written waiver granted in accordance with paragraph (2), the head of a Federal agency may not grant or renew a security clearance described in paragraph (3) for a covered person who—

(A) has been convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year;

(B) has been discharged or dismissed from the Armed Forces under dishonorable conditions; or

(C) is mentally incompetent, as determined by an adjudicating authority, based on an evaluation by a duly qualified mental health professional employed by, or acceptable to and approved by, the United States Government and in accordance with the adjudicative guidelines required by subsection (d).

(2) Waiver authority

In a meritorious case, an exception to the disqualification in this subsection may be authorized if there are mitigating factors. Any such waiver may be authorized only in accordance with—

(A) standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President; or

(B) the adjudicative guidelines required by subsection (d).

(3) Covered security clearances

This subsection applies to security clearances that provide for access to—

(A) special access programs;

(B) Restricted Data; or

(C) any other information commonly referred to as ''sensitive compartmented information''.

(4) Annual report

(A) Requirement for report

Not later than February 1 of each year, the head of a Federal agency shall submit a report to the appropriate committees of Congress if such agency employs or employed a person for whom a waiver was granted in accordance with paragraph (2) during the preceding year. Such annual report shall not reveal the identity of such person, but shall include for each waiver issued the disqualifying factor under paragraph (1) and the reasons for the waiver of the disqualifying factor.

(B) Definitions

In this paragraph:

(i) Appropriate committees of Congress

The term ''appropriate committees of Congress'' means, with respect to a report submitted under subparagraph (A) by the head of a Federal agency—

(I) the congressional defense committees;

(II) the congressional intelligence committees;

(III) the Committee on Homeland Security and Governmental Affairs of the Senate;

(IV) the Committee on Oversight and Government Reform of the House of Representatives; and

(V) each Committee of the Senate or the House of Representatives with oversight authority over such Federal agency.

(ii) Congressional defense committees

The term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10.

(iii) Congressional intelligence committees

The term ''congressional intelligence committees'' has the meaning given that term in section 401a of this title.

(d) Adjudicative guidelines

(1) Requirement to establish

The President shall establish adjudicative guidelines for determining eligibility for access to classified information.

(2) Requirements related to mental health

The guidelines required by paragraph (1) shall—

(A) include procedures and standards under which a covered person is determined to be mentally incompetent and provide a means to appeal such a determination; and

(B) require that no negative inference concerning the standards in the guidelines may be raised solely on the basis of seeking mental health counseling.

(Pub. L. 108–458, title III, § 3002, as added Pub. L. 110–181, div. A, title X, § 1072(a), Jan. 28, 2008, 122 Stat. 328.)

REFERENCES IN TEXT

Executive Order 12958, referred to in subsec. (a)(4), is set out as a note under section 435 of this title.

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

§ 436. Requests by authorized investigative agencies

(a) Generally

(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where—

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request—

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that—

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

(C) shall identify specifically or by category the records or information to be reviewed; and

(D) shall inform the recipient of the request of the prohibition described in subsection (b) of this section.

(b) Prohibition of certain disclosure

(1) If an authorized investigative agency described in subsection (a) certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that such entity has received or satisfied a request made by an authorized investigative agency under this section.

(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

(4) At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).

(c) Records or information; inspection or copying

(1) Notwithstanding any other provision of law (other than section 6103 of title 26), an entity re-

ceiving a request for records or information under subsection (a) of this section shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(d) Reimbursement of costs

Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

(e) Dissemination of records or information received

An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

(f) Construction of section

Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

(July 26, 1947, ch. 343, title VIII, § 802, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3436; amended Pub. L. 109–177, title I, § 116(f), Mar. 9, 2006, 120 Stat. 216; Pub. L. 109–178, § 4(e), Mar. 9, 2006, 120 Stat. 281.)

REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsec. (f), probably means the Right to Financial Privacy Act of 1978, which is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, as amended, and is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

The Fair Credit Reporting Act, referred to in subsec. (f), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–177 amended subsec. (b) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.''

Subsec. (b)(4). Pub. L. 109–178 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such official that the person intends to consult an attorney to obtain legal advice or legal assistance.''

§ 437. Exceptions

Except as otherwise specifically provided, the provisions of this subchapter shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

(July 26, 1947, ch. 343, title VIII, § 803, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3437.)

§ 438. Definitions

For purposes of this subchapter—

(1) the term ''authorized investigative agency'' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

(2) the term ''classified information'' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], to require protection against unauthorized disclosure and that is so designated;

(3) the term ''consumer reporting agency'' has the meaning given such term in section 1681a of title 15;

(4) the term ''employee'' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

(5) the terms ''financial agency'' and ''financial institution'' have the meanings given to such terms in section 5312(a) of title 31 and the term ''holding company'' has the meaning given to such term in section 3401(6) of title 12;

(6) the terms ''foreign power'' and ''agent of a foreign power'' have the same meanings as set forth in sections[1] 1801(a) and (b), respectively, of this title;

[1] So in original. Probably should be ''section''.

(7) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States; and

(8) the term ''computer'' means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.

(July 26, 1947, ch. 343, title VIII, § 804, as added Pub. L. 103–359, title VIII, § 802(a), Oct. 14, 1994, 108 Stat. 3438; amended Pub. L. 106–120, title III, § 305(b), Dec. 3, 1999, 113 Stat. 1611.)

REFERENCES IN TEXT

Executive Order No. 12356, referred to in par. (2), is set out as a note under section 435 of this title.

The Atomic Energy Act of 1954, referred to in par. (2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) 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.

AMENDMENTS

1999—Par. (8). Pub. L. 106–120 added par. (8).

SUBCHAPTER VII—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

§ 441. Stay of sanctions

Notwithstanding any provision of law identified in section 441c of this title, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines and reports to Congress in accordance with section 441b of this title that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 441a of this title.

(July 26, 1947, ch. 343, title IX, § 901, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 964.)

§ 441a. Extension of stay

Whenever the President determines and reports to Congress in accordance with section 441b of this title that a stay of sanctions or related actions pursuant to section 441 of this title has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 441 of this title for successive periods of not more than 120 days each.

(July 26, 1947, ch. 343, title IX, § 902, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 964.)

§ 441b. Reports

Reports to Congress pursuant to sections 441 and 441a of this title shall be submitted promptly upon determinations under this subchapter. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the congressional intelligence committees. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

(July 26, 1947, ch. 343, title IX, § 903, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 964; amended Pub. L. 107–306, title III, § 353(b)(2)(C), Nov. 27, 2002, 116 Stat. 2402.)

AMENDMENTS

2002—Pub. L. 107–306 substituted ''congressional intelligence committees'' for ''Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate''.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 441c. Laws subject to stay

The President may use the authority of sections 441 and 441a of this title to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182) [22 U.S.C. 5601 et seq.]; the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102–484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103–87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103–306); and comparable provisions.

(July 26, 1947, ch. 343, title IX, § 904, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 965.)

REFERENCES IN TEXT

The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, referred to in text, is title III of Pub. L. 102–182, Dec. 4, 1991, 105 Stat. 1245, as amended, which is classified principally to chapter 65 (§ 5601 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 22 and Tables.

The Nuclear Proliferation Prevention Act of 1994, referred to in text, is title VIII of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 507, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 22, Foreign Relations and Intercourse, and Tables.

Title XVII of the National Defense Authorization Act for Fiscal Year 1991, referred to in text, is title XVII of div. A of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1750, as amended, which enacted section 2410b of the Appendix to this title and sections 2797 to 2797c of Title 22, Foreign Relations and Intercourse, amended section 2405 of the Appendix to this title, and enacted provisions set out as notes under section 2402 of the Appendix to this title and section 2797 of Title 22. For complete classification of title XVII to the Code, see Tables.

The Iran-Iraq Arms Nonproliferation Act of 1992, referred to in text, is title XVI of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2571, as amended, which is set out as a note under section 1701 of this title.

Section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994, referred to in text, probably means section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Pub. L. 103–87, title V, Sept. 30, 1993, 107 Stat. 972, which is not classified to the Code.

Section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995, referred to in text, probably means section 563 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995, Pub. L. 103–306, title V, Aug. 23, 1994, 108 Stat. 1649, which is not classified to the Code.

§ 441d. Repealed. Pub. L. 108–177, title III, § 313(a), Dec. 13, 2003, 117 Stat. 2610

Section, act July 26, 1947, ch. 343, title IX, § 905, as added Pub. L. 104–93, title III, § 303(a), Jan. 6, 1996, 109 Stat. 965; amended Pub. L. 104–293, title III, § 304, Oct. 11, 1996, 110 Stat. 3464; Pub. L. 105–107, title III, § 304, Nov. 20, 1997, 111 Stat. 2252; Pub. L. 105–272, title III, § 303, Oct. 20, 1998, 112 Stat. 2400, provided that this subchapter would cease to be effective on Jan. 6, 2000.

SUBCHAPTER VII–A—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

PART A—SCIENCE AND TECHNOLOGY

§ 441g. Scholarships and work-study for pursuit of graduate degrees in science and technology

(a) Program authorized

The Director of National Intelligence may carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

(b) Administration

If the Director of National Intelligence carries out the program under subsection (a) of this section, the Director of National Intelligence shall administer the program through the Office of the Director of National Intelligence.

(c) Identification of fields of study

If the Director of National Intelligence carries out the program under subsection (a) of this section, the Director shall identify fields of study under subsection (a) of this section in consultation with the other heads of the elements of the intelligence community.

(d) Eligibility for participation

An individual eligible to participate in the program is any individual who—

(1) either—

(A) is an employee of the intelligence community; or

(B) meets criteria for eligibility for employment in the intelligence community that are established by the Director of National Intelligence;

(2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a) of this section; and

(3) is eligible for a security clearance at the level of Secret or above.

(e) Regulations

If the Director of National Intelligence carries out the program under subsection (a) of this section, the Director shall prescribe regulations for purposes of the administration of this section.

(July 26, 1947, ch. 343, title X, § 1001, as added Pub. L. 107–306, title III, § 331(a)(3), Nov. 27, 2002, 116 Stat. 2394; amended Pub. L. 108–458, title I, §§ 1071(a)(1)(MM), (3)(C)–(F), 1072(a)(8), Dec. 17, 2004, 118 Stat. 3689, 3690, 3692.)

PRIOR PROVISIONS

A prior section 1001 of act July 26, 1947, ch. 343, was renumbered section 1101 and is classified to section 442 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, § 1071(a)(1)(MM), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b). Pub. L. 108–458, § 1072(a)(8), substituted ''Office of the Director of National Intelligence'' for ''Assistant Director of Central Intelligence for Administration''.

Pub. L. 108–458, § 1071(a)(3)(C), which directed amendment of subsec. (b) by substituting ''Director of National Intelligence'' for ''Director'' each place it appeared, was executed by making the substitution the first two places it appeared to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 108–458, § 1071(a)(3)(D), substituted ''If the Director of National Intelligence'' for ''If the Director''.

Subsec. (d)(1)(B). Pub. L. 108–458, § 1071(a)(3)(E), substituted ''Director of National Intelligence'' for ''Director''.

Subsec. (e). Pub. L. 108–458, § 1071(a)(3)(F), substituted ''If the Director of National Intelligence'' for ''If the Director''.

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 401 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 401 of this title.

PILOT PROGRAM ON RECRUITMENT AND TRAINING OF INTELLIGENCE ANALYSTS

Pub. L. 108–177, title III, § 318, Dec. 13, 2003, 117 Stat. 2613, as amended by Pub. L. 108–458, title I, §§ 1071(g)(3)(A)(iii), 1072(d)(2)(B), Dec. 17, 2004, 118 Stat. 3692, 3693, provided that:

''(a) PILOT PROGRAM.—(1) The Director of National Intelligence shall carry out a pilot program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in areas of specialization that the Director, in consultation with the other heads of the elements of the intelligence community, identifies as areas in which the current analytic capabilities of the intelligence community are deficient or in which future analytic capabilities of the intelligence community are likely to be deficient.

''(2) A student or former student selected for participation in the pilot program shall commit to employment with an element of the intelligence community, following completion of appropriate academic training, under such terms and conditions as the Director considers appropriate.

''(3) The pilot program shall be known as the Pat Roberts Intelligence Scholars Program.

''(b) ELEMENTS.—In carrying out the pilot program under subsection (a), the Director shall—

''(1) establish such requirements relating to the academic training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence analysts; and

''(2) periodically review the areas of specialization of the elements of the intelligence community to determine the areas in which such elements are, or are likely to be, deficient in analytic capabilities.

''(c) DURATION.—The Director shall carry out the pilot program under subsection (a) during fiscal years 2004 through 2006.

''(d) LIMITATION ON NUMBER OF MEMBERS DURING FISCAL YEAR 2004.—The total number of individuals participating in the pilot program under subsection (a) during fiscal year 2004 may not exceed 150 students.

''(e) RESPONSIBILITY.—The Director shall carry out the pilot program under subsection (a) through the Deputy Director of National Intelligence.

''(f) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act [Dec. 13, 2003], the Director shall submit to Congress a preliminary report on the pilot program under subsection (a), including a description of the pilot program and the authorities to be utilized in carrying out the pilot program.

''(2) Not later than one year after the commencement of the pilot program, the Director shall submit to Congress a report on the pilot program. The report shall include—

''(A) a description of the activities under the pilot program, including the number of individuals who participated in the pilot program and the training provided such individuals under the pilot program;

''(B) an assessment of the effectiveness of the pilot program in meeting the purpose of the pilot program; and

''(C) any recommendations for additional legislative or administrative action that the Director considers appropriate in light of the pilot program.

''(g) FUNDING.—Of the amounts authorized to be appropriated by this Act, $4,000,000 shall be available until expended to carry out this section.''

§ 441g–1. Framework for cross-disciplinary education and training

The Director of National Intelligence shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.

(July 26, 1947, ch. 343, title X, § 1002, as added Pub. L. 108–458, title I, § 1042, Dec. 17, 2004, 118 Stat. 3679.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

§ 441g–2. Intelligence Community Scholarship Program

(a) Establishment

(1) In general

The Director of National Intelligence, in consultation with the head of each agency of the intelligence community, shall establish a scholarship program (to be known as the ''Intelligence Community Scholarship Program'') to award scholarships to individuals that is designed to recruit and prepare students for civilian careers in the intelligence community to meet the critical needs of the intelligence community agencies.

(2) Selection of recipients

(A) Merit and agency needs

Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit and the needs of the agency.

(B) Demonstrated commitment

Individuals selected under this section shall have a demonstrated commitment to the field of study for which the scholarship is awarded.

(3) Contractual agreements

To carry out the Program the head of each agency shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the agency, for the period described in subsection (g)(1) of this section, in positions needed by the agency and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) Eligibility

In order to be eligible to participate in the Program, an individual shall—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education and be pursuing or intend to pursue undergraduate or graduate education in an academic field or discipline described in the list made available under subsection (d) of this section;

(2) be a United States citizen; and

(3) at the time of the initial scholarship award, not be an employee (as defined under section 2105 of title 5).

(c) Application

An individual seeking a scholarship under this section shall submit an application to the Director of National Intelligence at such time, in such manner, and containing such information, agreements, or assurances as the Director may require.

(d) Programs and fields of study

The Director of National Intelligence shall—

(1) make publicly available a list of academic programs and fields of study for which scholarships under the Program may be used; and

(2) update the list as necessary.

(e) Scholarships

(1) In general

The Director of National Intelligence may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Director, as part of the application required under subsection (c) of this section, a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d) of this section.

(2) Limitation on years

An individual may not receive a scholarship under this section for more than 4 academic years, unless the Director of National Intelligence grants a waiver.

(3) Student responsibilities

Scholarship recipients shall maintain satisfactory academic progress.

(4) Amount

The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Director of National Intelligence, but shall in no case exceed the cost of tuition, fees, and other authorized expenses as established by the Director.

(5) Use of scholarships

A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Director of National Intelligence by regulation.

(6) Payment to institution of higher education

The Director of National Intelligence may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f) Special consideration for current employees

(1) Set aside of scholarships

Notwithstanding paragraphs (1) and (3) of subsection (b) of this section, 10 percent of the scholarships awarded under this section shall be set aside for individuals who are employees of agencies on December 17, 2004, to enhance the education of such employees in areas of critical needs of agencies.

(2) Full- or part-time education

Employees who are awarded scholarships under paragraph (1) shall be permitted to pursue undergraduate or graduate education under the scholarship on a full-time or part-time basis.

(g) Employee service

(1) Period of service

Except as provided in subsection (i)(2) of this section, the period of service for which an individual shall be obligated to serve as an employee of the agency is 24 months for each academic year for which a scholarship under this section is provided. Under no circumstances shall the total period of obligated service be more than 8 years.

(2) Beginning of service

(A) In general

Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) Deferral

In accordance with regulations established by the Director of National Intelligence, the Director or designee may defer the obligation of an individual to provide a period of service under paragraph (1) if the Director or designee determines that such a deferral is appropriate.

(h) Repayment

(1) In general

Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Director of National Intelligence, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (i)(2) of this section. The repayment period may be extended by the Director when determined to be necessary, as established by regulation.

(2) Liability

Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Director of National Intelligence under subsection (i)(2)(B)[1] of this section, shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; and

[1] So in original. Probably should be subsection ''(g)(2)(B)''.

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

(i) Cancellation, waiver, or suspension of obligation

(1) Cancellation

Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) Waiver or suspension

The Director of National Intelligence shall prescribe regulations to provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(j) Regulations

The Director of National Intelligence shall prescribe regulations necessary to carry out this section.

(k) Definitions

In this section:

(1) Agency

The term ''agency'' means each element of the intelligence community as determined by the Director of National Intelligence.

(2) Institution of higher education

The term ''institution of higher education'' has the meaning given that term under section 1001 of title 20.

(3) Program

The term ''Program'' means the Intelligence Community Scholarship Program established under subsection (a) of this section.

(July 26, 1947, ch. 343, title X, § 1003, as added Pub. L. 108–458, title I, § 1043, Dec. 17, 2004, 118 Stat. 3679.)

EFFECTIVE DATE

For Determination by President that section 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 401 of this title.

Section 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 401 of this title.

PART B—FOREIGN LANGUAGES PROGRAM

§ 441j. Program on advancement of foreign languages critical to the intelligence community

(a) In general

The Secretary of Defense and the Director of National Intelligence may jointly carry out a program to advance skills in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States (hereinafter in this part referred to as the ''Foreign Languages Program'').

(b) Identification of requisite actions

In order to carry out the Foreign Languages Program, the Secretary of Defense and the Director of National Intelligence shall jointly identify actions required to improve the education of personnel in the intelligence community in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States and to meet the long-term intelligence needs of the United States.

(July 26, 1947, ch. 343, title X, § 1011, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3955.)

§ 441j–1. Education partnerships

(a) In general

In carrying out the Foreign Languages Program, the head of a covered element of the intelligence community may enter into one or more education partnership agreements with educational institutions in the United States in order to encourage and enhance the study in such educational institutions of foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States.

(b) Assistance provided under educational partnership agreements

Under an educational partnership agreement entered into with an educational institution pursuant to this section, the head of a covered element of the intelligence community may provide the following assistance to the educational institution:

(1) The loan of equipment and instructional materials of the element of the intelligence community to the educational institution for any purpose and duration that the head of the element considers appropriate.

(2) Notwithstanding any other provision of law relating to the transfer of surplus property, the transfer to the educational institution of any computer equipment, or other equipment, that is—

(A) commonly used by educational institutions;

(B) surplus to the needs of the element of the intelligence community; and

(C) determined by the head of the element to be appropriate for support of such agreement.

(3) The provision of dedicated personnel to the educational institution—

(A) to teach courses in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States; or

(B) to assist in the development for the educational institution of courses and materials on such languages.

(4) The involvement of faculty and students of the educational institution in research

projects of the element of the intelligence community.

(5) Cooperation with the educational institution in developing a program under which students receive academic credit at the educational institution for work on research projects of the element of the intelligence community.

(6) The provision of academic and career advice and assistance to students of the educational institution.

(7) The provision of cash awards and other items that the head of the element of the intelligence community considers appropriate.

(July 26, 1947, ch. 343, title X, § 1012, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3956.)

§ 441j–2. Voluntary services

(a) Authority to accept services

Notwithstanding section 1342 of title 31 and subject to subsection (b) of this section, the Foreign Languages Program under section 441j of this title shall include authority for the head of a covered element of the intelligence community to accept from any dedicated personnel voluntary services in support of the activities authorized by this part.

(b) Requirements and limitations

(1) In accepting voluntary services from an individual under subsection (a) of this section, the head of a covered element of the intelligence community shall—

(A) supervise the individual to the same extent as the head of the element would supervise a compensated employee of that element providing similar services; and

(B) ensure that the individual is licensed, privileged, has appropriate educational or experiential credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(2) In accepting voluntary services from an individual under subsection (a) of this section, the head of a covered element of the intelligence community may not—

(A) place the individual in a policymaking position, or other position performing inherently governmental functions; or

(B) compensate the individual for the provision of such services.

(c) Authority to recruit and train individuals providing services

The head of a covered element of the intelligence community may recruit and train individuals to provide voluntary services under subsection (a) of this section.

(d) Status of individuals providing services

(1) Subject to paragraph (2), while providing voluntary services under subsection (a) of this section or receiving training under subsection (c) of this section, an individual shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Section 552a of title 5 (relating to maintenance of records on individuals).

(B) Chapter 11 of title 18 (relating to conflicts of interest).

(2)(A) With respect to voluntary services under paragraph (1) provided by an individual that are within the scope of the services accepted under that paragraph, the individual shall be deemed to be a volunteer of a governmental entity or nonprofit institution for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

(B) In the case of any claim against such an individual with respect to the provision of such services, section 4(d) of such Act (42 U.S.C. 14503(d)) shall not apply.

(3) Acceptance of voluntary services under this section shall have no bearing on the issuance or renewal of a security clearance.

(e) Reimbursement of incidental expenses

(1) The head of a covered element of the intelligence community may reimburse an individual for incidental expenses incurred by the individual in providing voluntary services under subsection (a) of this section. The head of a covered element of the intelligence community shall determine which expenses are eligible for reimbursement under this subsection.

(2) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

(f) Authority to install equipment

(1) The head of a covered element of the intelligence community may install telephone lines and any necessary telecommunication equipment in the private residences of individuals who provide voluntary services under subsection (a) of this section.

(2) The head of a covered element of the intelligence community may pay the charges incurred for the use of equipment installed under paragraph (1) for authorized purposes.

(3) Notwithstanding section 1348 of title 31, the head of a covered element of the intelligence community may use appropriated funds or nonappropriated funds of the element in carrying out this subsection.

(July 26, 1947, ch. 343, title X, § 1013, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3957.)

REFERENCES IN TEXT

The Volunteer Protection Act of 1997, referred to in subsec.(d)(2)(A), is Pub. L. 105–19, June 18, 1997, 111 Stat. 218, which is classified generally to chapter 139 (§ 14501 et seq.) 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 14501 of Title 42 and Tables.

§ 441j–3. Regulations

(a) In general

The Secretary of Defense and the Director of National Intelligence shall jointly prescribe regulations to carry out the Foreign Languages Program.

(b) Elements of the intelligence community

The head of each covered element of the intelligence community shall prescribe regulations to carry out sections 441j–1 and 441j–2 of this

title with respect to that element including the following:

(1) Procedures to be utilized for the acceptance of voluntary services under section 441j–2 of this title.

(2) Procedures and requirements relating to the installation of equipment under section 441j–2(f) of this title.

(July 26, 1947, ch. 343, title X, § 1014, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3958.)

§ 441j–4. Definitions

In this part:

(1) The term ''covered element of the intelligence community'' means an agency, office, bureau, or element referred to in subparagraphs (B) through (L) of section 401a(4) of this title.

(2) The term ''educational institution'' means—

(A) a local educational agency (as that term is defined in section 7801(26) of title 20);

(B) an institution of higher education (as defined in section 1002 of title 20, other than institutions referred to in subsection (a)(1)(C) of such section); or

(C) any other nonprofit institution that provides instruction of foreign languages in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

(3) The term ''dedicated personnel'' means employees of the intelligence community and private citizens (including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged, honorably separated, or generally discharged under honorable circumstances and rehired on a voluntary basis specifically to perform the activities authorized under this part).

(July 26, 1947, ch. 343, title X, § 1015, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3958.)

PART C—ADDITIONAL EDUCATION PROVISIONS

§ 441m. Assignment of intelligence community personnel as language students

(a) In general

The Director of National Intelligence, acting through the heads of the elements of the intelligence community, may assign employees of such elements in analyst positions requiring foreign language expertise as students at accredited professional, technical, or other institutions of higher education for training at the graduate or undergraduate level in foreign languages required for the conduct of duties and responsibilities of such positions.

(b) Authority for reimbursement of costs of tuition and training

(1) The Director of National Intelligence may reimburse an employee assigned under subsection (a) of this section for the total cost of the training described in that subsection, including costs of educational and supplementary reading materials.

(2) The authority under paragraph (1) shall apply to employees who are assigned on a full-time or part-time basis.

(3) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

(c) Relationship to compensation as an analyst

Reimbursement under this section to an employee who is an analyst is in addition to any benefits, allowances, travel expenses, or other compensation the employee is entitled to by reason of serving in such an analyst position.

(July 26, 1947, ch. 343, title X, § 1021, as added Pub. L. 108–487, title VI, § 612(a)(2), Dec. 23, 2004, 118 Stat. 3959.)

SUBCHAPTER VIII—ADDITIONAL MISCELLANEOUS PROVISIONS

§ 442. Applicability to United States intelligence activities of Federal laws implementing international treaties and agreements

(a) In general

No Federal law enacted on or after December 27, 2000, that implements a treaty or other international agreement shall be construed as making unlawful an otherwise lawful and authorized intelligence activity of the United States Government or its employees, or any other person to the extent such other person is carrying out such activity on behalf of, and at the direction of, the United States, unless such Federal law specifically addresses such intelligence activity.

(b) Authorized intelligence activities

An intelligence activity shall be treated as authorized for purposes of subsection (a) of this section if the intelligence activity is authorized by an appropriate official of the United States Government, acting within the scope of the official duties of that official and in compliance with Federal law and any applicable Presidential directive.

(July 26, 1947, ch. 343, title XI, § 1101, formerly title X, § 1001, as added Pub. L. 106–567, title III, § 308(a), Dec. 27, 2000, 114 Stat. 2839; renumbered title XI, § 1101, Pub. L. 107–306, title III, § 331(a)(1), (2), Nov. 27, 2002, 116 Stat. 2394.)

§ 442a. Counterintelligence initiatives

(a) Inspection process

(1) In order to protect intelligence sources and methods from unauthorized disclosure, the Director of National Intelligence shall establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States intended to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.

(2) The Director shall carry out the process through the Office of the National Counterintelligence Executive.

(b) Annual review of dissemination lists

(1) The Director of National Intelligence shall establish and implement a process for all elements of the intelligence community to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized ''need to know'' (as determined by the Director) are continued on such distribution lists.

(2) Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.

(c) Completion of financial disclosure statements required for access to certain classified information

(1) The Director of National Intelligence shall establish and implement a process by which each head of an element of the intelligence community directs that all employees of that element, in order to be granted access to classified information referred to in subsection (a) of section 1.3 of Executive Order No. 12968 (August 2, 1995; 60 Fed. Reg. 40245; 50 U.S.C. 435 note), submit financial disclosure forms as required under subsection (b) of such section.

(2) The Director shall carry out paragraph (1) through the Office of the National Counterintelligence Executive.

(d) Arrangements to handle sensitive information

The Director of National Intelligence shall establish, for all elements of the intelligence community, programs and procedures by which sensitive classified information relating to human intelligence is safeguarded against unauthorized disclosure by employees of those elements.

(July 26, 1947, ch. 343, title XI, § 1102, as added Pub. L. 108–177, title III, § 341(a)(1), Dec. 13, 2003, 117 Stat. 2615; amended Pub. L. 108–458, title I, § 1071(a)(1)(NN)–(QQ), Dec. 17, 2004, 118 Stat. 3689, 3690.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, § 1071(a)(1)(NN), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (b)(1). Pub. L. 108–458, § 1071(a)(1)(OO), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (c)(1). Pub. L. 108–458, § 1071(a)(1)(PP), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (d). Pub. L. 108–458, § 1071(a)(1)(QQ), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

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 401 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 401 of this title.

CHAPTER 16—DEFENSE INDUSTRIAL RESERVES

Sec.
451 to 454. Transferred or Repealed.
455. Authorization of appropriations.
456 to 462. Omitted.

§§ 451 to 453. Transferred

CODIFICATION

Sections 451, 452, and 453 of this title were transferred to section 2535 of Title 10, Armed Forces, and redesignated as subsecs. (a), (c), and (b), respectively, of section 2535 by Pub. L. 102–484, div. D, title XLII, § 4235(a)(2), (3), (b), Oct. 23, 1992, 106 Stat. 2690, 2691.

Section 451, acts July 2, 1948, ch. 811, § 2, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93–155, title VIII, § 809, 87 Stat. 617, related to Congressional declaration of purpose and policy in enacting this chapter.

Section 452, acts July 2, 1948, ch. 811, § 3, 62 Stat. 1225; Nov. 16, 1973, Pub. L. 93–155, title VIII, § 809, 87 Stat. 617, defined ''Secretary'', ''Defense Industrial Reserve'', and ''plant equipment package'' for purposes of this chapter.

Section 453, acts July 2, 1948, ch. 811, § 4, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93–155, title VIII, § 809, 87 Stat. 617; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, § 1359(a), 100 Stat. 3999, related to powers and duties of Secretary of Defense, reimbursement for transferred Defense Industrial Reserve equipment, and regulations.

SHORT TITLE

Section 1 of act July 2, 1948, as amended by Pub. L. 93–155, § 809, provided: ''That this Act [enacting this chapter] may be cited as the 'Defense Industrial Reserve Act'.''

§ 454. Repealed. Pub. L. 101–510, div. A, title XIII, § 1303(a), Nov. 5, 1990, 104 Stat. 1669

Section, acts July 2, 1948, ch. 811, § 5, 62 Stat. 1226; Nov. 16, 1973, Pub. L. 93–155, title VIII, § 809, 87 Stat. 618, related to reports concerning status of defense industrial reserve.

§ 455. Authorization of appropriations

There are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary to enable the Secretary to carry out the provisions of this chapter.

(July 2, 1948, ch. 811, § 6, 62 Stat. 1226; Pub. L. 93–155, title VIII, § 809, Nov. 16, 1973, 87 Stat. 618.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 14 of act July 2, 1948, ch. 811, 62 Stat. 1228 (classified to section 462 of this title) prior to the general amendment of act July 2, 1948, by Pub. L. 93–155.

AMENDMENTS

1973—Pub. L. 93–155 substituted provisions respecting authorization of appropriations, for prior provisions respecting acceptance of plants by Administrator of General Services, disposition of plants, and conditions of lease, now covered in section 453 of this title.

§§ 456 to 462. Omitted

CODIFICATION

Sections 456 to 462 were omitted in the general amendment of act July 2, 1948, ch. 811 by Pub. L. 93–155, title VIII, § 809, Nov. 16, 1973, 87 Stat. 617. See sections 453 to 455 of this title.

Section 456, act July 2, 1948, ch. 811, § 7, 62 Stat. 1227, related to powers of Secretary of Defense respecting