

§ 9A. Coordination requirements relating to the prosecution of cases involving classified information

(a) BRIEFINGS REQUIRED.—The Assistant Attorney General for the Criminal Division or the Assistant Attorney General for National Security, as appropriate, and the appropriate United States attorney, or the designees of such officials, shall provide briefings to the senior agency official, or the designee of such official, with respect to any case involving classified information that originated in the agency of such senior agency official.

(b) TIMING OF BRIEFINGS.—Briefings under subsection (a) with respect to a case shall occur—

(1) as soon as practicable after the Department of Justice and the United States attorney concerned determine that a prosecution or potential prosecution could result; and

(2) at such other times thereafter as are necessary to keep the senior agency official concerned fully and currently informed of the status of the prosecution.

(c) SENIOR AGENCY OFFICIAL DEFINED.—In this section, the term “senior agency official” has the meaning given that term in section 1.1 of Executive Order No. 12958.

(Pub. L. 96-456, §9A, as added Pub. L. 106-567, title VI, §607, Dec. 27, 2000, 114 Stat. 2855; amended Pub. L. 109-177, title V, §506(a)(8), Mar. 9, 2006, 120 Stat. 248.)

REFERENCES IN TEXT

Executive Order No. 12958, referred to in subsec. (c), which was set out as a note under section 435 of Title 50, War and National Defense, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-177 inserted “or the Assistant Attorney General for National Security, as appropriate,” after “Assistant Attorney General for the Criminal Division”.

§ 10. Identification of information related to the national defense

In any prosecution in which the United States must establish that material relates to the national defense or constitutes classified information, the United States shall notify the defendant, within the time before trial specified by the court, of the portions of the material that it reasonably expects to rely upon to establish the national defense or classified information element of the offense.

(Pub. L. 96-456, §10, Oct. 15, 1980, 94 Stat. 2029.)

§ 11. Amendments to the Act

Sections 1 through 10 of this Act may be amended as provided in section 2076, title 28, United States Code.

(Pub. L. 96-456, §11, Oct. 15, 1980, 94 Stat. 2029.)

§ 12. Attorney General guidelines

(a) Within one hundred and eighty days of enactment of this Act, the Attorney General shall issue guidelines specifying the factors to be used

by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed. Such guidelines shall be transmitted to the appropriate committees of Congress.

(b) When the Department of Justice decides not to prosecute a violation of Federal law pursuant to subsection (a), an appropriate official of the Department of Justice shall prepare written findings detailing the reasons for the decision not to prosecute. The findings shall include—

(1) the intelligence information which the Department of Justice officials believe might be disclosed,

(2) the purpose for which the information might be disclosed,

(3) the probability that the information would be disclosed, and

(4) the possible consequences such disclosure would have on the national security.

(Pub. L. 96-456, §12, Oct. 15, 1980, 94 Stat. 2029.)

REFERENCES IN TEXT

The enactment of this Act, referred to in subsec. (a), means Oct. 15, 1980.

§ 13. Reports to Congress

(a) Consistent with applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the Attorney General shall report orally or in writing semiannually to the Permanent Select Committee on Intelligence of the United States House of Representatives, the Select Committee on Intelligence of the United States Senate, and the chairmen and ranking minority members of the Committees on the Judiciary of the Senate and House of Representatives on all cases where a decision not to prosecute a violation of Federal law pursuant to section 12(a) has been made.

(b) In the case of the semiannual reports (whether oral or written) required to be submitted under subsection (a) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

(c) The Attorney General shall deliver to the appropriate committees of Congress a report concerning the operation and effectiveness of this Act and including suggested amendments to this Act. For the first three years this Act is in effect, there shall be a report each year. After three years, such reports shall be delivered as necessary.

(Pub. L. 96-456, §13, Oct. 15, 1980, 94 Stat. 2030; Pub. L. 107-306, title VIII, §811(b)(3), Nov. 27, 2002, 116 Stat. 2423.)

REFERENCES IN TEXT

Section 507 of the National Security Act of 1947, referred to in subsec. (b), is classified to section 415b of Title 50, War and National Defense.