

fore,' 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 di-

rected 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, do-