

Sec.	
442a.	Counterintelligence initiatives.
442b.	Misuse of the Office of the Director of National Intelligence name, initials, or seal.

#### § 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 Direc-

tor 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. 404o(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

Act July 26, 1947, ch. 343, title III, §310, 61 Stat. 509, 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 171i, 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 2012 AMENDMENT

Pub. L. 112-235, §1, Dec. 28, 2012, 126 Stat. 1626, provided that: “This Act [amending provisions set out as a note under section 435 of this title] may be cited as the ‘Public Interest Declassification Board Reauthorization Act of 2012.’”

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, 404o, 404o-1, 404o-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 404l, 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

Act Aug. 10, 1949, ch. 412, §1, 63 Stat. 578, 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

Act July 26, 1947, ch. 343, §1, 61 Stat. 495, 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:

<i>Section of former Title 5</i>	<i>Section of Title 10</i>
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.”

Act Aug. 10, 1949, ch. 412, §12(g), 63 Stat. 591, 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 than those to which such provision is held invalid shall not be affected thereby.”

Act July 26, 1947, ch. 343, title III, §309, 61 Stat. 509, 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. 111–259, title VII, §701(a)(3), Oct. 7, 2010, 124 Stat. 2745, provided that: “The membership of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community established under subsection (a) of section 1002 of such Act (Public Law 107–306; 50 U.S.C. 401 note) [set out below] (referred to in this section [enacting and amending provisions set out below] as the ‘Commission’) shall be considered vacant and new members shall be appointed in accordance with such section 1002, as amended by this section.”

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; Pub. L. 111–259, title VII, §701(a)(1), (4), (b)(3), (c), Oct. 7, 2010, 124 Stat. 2744, 2745; Pub. L. 112–277, title V, §502, Jan. 14, 2013, 126 Stat. 2476, provided that:

“SEC. 1001. FINDINGS.

“Congress makes the following findings:

“(1) Research and development efforts under the purview of the intelligence community are vitally important to the national security of the United States.

“(2) The intelligence community must operate in a dynamic, highly-challenging environment, characterized by rapid technological growth, against a growing number of hostile, technically-sophisticated threats. Research and development programs under the purview of the intelligence community are critical to ensuring that intelligence agencies, and their personnel, are provided with important technological capabilities to detect, characterize, assess, and ultimately counter the full range of threats to the national security of the United States.

“(3) There is a need to review the full range of current research and development programs under the purview of the intelligence community, evaluate such programs against the scientific and technological fields judged to be of most importance, and articulate program and resource priorities for future research and development activities to ensure a unified and coherent research and development program across the entire intelligence community.

“SEC. 1002. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

“(a) ESTABLISHMENT.—There is established a commission to be known as the ‘National Commission for the Review of the Research and Development Programs of the United States Intelligence Community’ (in this title referred to as the ‘Commission’).

“(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

“(1) The Principal Deputy Director of National Intelligence.

“(2) A senior intelligence official of the Office of the Secretary of Defense, as designated by the Secretary of Defense.

“(3) Three members appointed by the majority leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.

“(4) Two members appointed by the minority leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.

“(5) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.

“(6) Two members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.

“(c) MEMBERSHIP.—(1) The individuals appointed from private life as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—

“(A) research and development programs;

“(B) technology discovery and insertion;

“(C) use of intelligence information by national policymakers and military leaders; or

“(D) the implementation, funding, or oversight of the national security policies of the United States.

“(2) An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

“(3) All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

“(d) CO-CHAIRS.—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.

“(2) One co-chair of the Commission shall be a member of the Democratic Party, and one co-chair shall be a member of the Republican Party.

“(3) The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives.

“(e) APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act [Nov. 27, 2002].

“(2) The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.

“(f) MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.

“(2) Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.

“(3) 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.

“(4) If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act [Nov. 27, 2002], a quorum shall consist of a majority of the members of the Commission as of such day.

“(g) ACTIONS OF COMMISSION.—(1) The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.

“(2) The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

“(3) Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.

“(h) DUTIES.—The duties of the Commission shall be—

“(1) to conduct, until not later than the date on which the Commission submits the report under section 1007(a), the review described in subsection (i); and

“(2) to submit to the congressional intelligence committees, the Director of National Intelligence, and the Secretary of Defense a final report on the results of the review.

“(i) REVIEW.—The Commission shall review the status of research and development programs and activities within the intelligence community, including advanced research and development programs and activities. Such review shall include—

“(1) an assessment of the advisability of modifying the scope of research and development for purposes of such programs and activities;

“(2) a review of the particular individual research and development activities under such programs;

“(3) an evaluation of the current allocation of resources for research and development, including whether the allocation of such resources for that purpose should be modified;

“(4) an identification of the scientific and technological fields judged to be of most importance to the intelligence community;

“(5) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of other departments and agencies of the Federal Government; and

“(6) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and de-

velopment programs and activities of the private sector.

“SEC. 1003. POWERS OF 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, and 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 considers necessary.

“(2) Subpoenas may be issued under subparagraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.

“(3) 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 a 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 advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

“(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, 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 of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

“(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Director of National Intelligence shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission’s duties under this title.

“(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

“(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

“(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

“(e) PROHIBITION ON WITHHOLDING INFORMATION.—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

“(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

“(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

“SEC. 1004. STAFF OF COMMISSION.

“(a) IN GENERAL.—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall 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 duties, 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 such title.

“(2) 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.

“(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

“(b) CONSULTANT SERVICES.—(1) The Commission may 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 such title.

“(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

“SEC. 1005. 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 under this title.

“(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason 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 may 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 of title 5, United States Code.

“SEC. 1006. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.

“(a) IN GENERAL.—(1) The Director of National Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

“(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

“(b) ACCESS AFTER TERMINATION OF COMMISSION.—Notwithstanding any other provision of law, after the termination of the Commission under section 1007, only the Members and designated staff of the congressional intelligence committees, the Director of National Intelligence (and the designees of the Director), and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

“SEC. 1007. FINAL REPORT; TERMINATION.

“(a) FINAL REPORT.—Not later than March 31, 2013, the Commission shall submit to the congressional intelligence committees, the Director of National Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

“(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.

“(2) The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to Congress concerning the final report referred to in that paragraph and disseminating the report.

“SEC. 1008. ASSESSMENTS OF FINAL REPORT.

“Not later than 60 days after receipt of the final report under section 1007(a), the Director of National Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

“SEC. 1009. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.

“(a) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

“(b) FREEDOM OF INFORMATION ACT.—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

“[SEC. 1010. Repealed. Pub. L. 111-259, title VII, § 701(b)(3), Oct. 7, 2010, 124 Stat. 2745.]

“SEC. 1011. DEFINITIONS.

“In this title:

“(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—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.

“(2) INTELLIGENCE COMMUNITY.—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. 401a(4)).”

[Pub. L. 111-259, title VII, § 701(a)(1), Oct. 7, 2010, 124 Stat. 2744, provided that the amendment made by section 701(a)(1) of Pub. L. 111-259 [amending Pub. L. 107-306, § 1007(a), set out above] is effective on the date on which funds are first appropriated pursuant to section 701(b)(1) of Pub. L. 111-259 [124 Stat. 2745] and subject to section 701(a)(3) of Pub. L. 111-259 [set out above].]

[Pub. L. 111-259, title VII, § 701(a)(2), Oct. 7, 2010, 124 Stat. 2745, provided that: “The amendment made by paragraph (1) [amending Pub. L. 107-306, § 1007(a), set out above] shall take effect as if included in the enactment of such section 1007.”]

[Pub. L. 108-177, title III, § 315(b), Dec. 13, 2003, 117 Stat. 2610, provided that: “The amendment made by subsection (a) [amending section 1007 of Pub. L. 107-306, set out above] shall take effect as if included in the enactment of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 [Pub. L. 107-306].”]

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 cur-

rent 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 the head [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 to 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 intelligence 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 COUNTER-INTELLIGENCE 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 COUNTER-INTELLIGENCE 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) through [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 Execu-

tive 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 Community 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 agree-

ments 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 non-public 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 fellow-

ship 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 ad-

vis 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 404o 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, inten-

tions, 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 Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, 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 Office of Intelligence and Analysis of the Department of Homeland Security.

(L) Such other elements of any 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 National 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