

PRIOR PROVISIONS

A prior section 403-5b, act July 26, 1947, ch. 343, title I, § 105B, as added Pub. L. 106-120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616, which related to protection of operational files of the National Imagery and Mapping Agency, was renumbered by subsequent acts and transferred, see section 432 of this title.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-458, § 1071(a)(1)(G), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (a)(2). Pub. L. 108-458, § 1071(a)(2)(B), struck out “of Central Intelligence” after “Director”.

Subsec. (b). Pub. L. 108-458, § 1071(a)(2)(C), struck out “of Central Intelligence” after “notice to the Director”.

Pub. L. 108-458, § 1071(a)(1)(H), substituted “with the Director of National Intelligence” for “with the Director of Central Intelligence”.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of this title.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.

§ 403-5c. Transferred

CODIFICATION

Section, act July 26, 1947, ch. 343, title I, § 105C, formerly § 105B, as added Pub. L. 106-120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616; renumbered § 105C, Pub. L. 107-56, title IX, § 905(a)(1), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 107-306, title III, § 353(b)(5), Nov. 27, 2002, 116 Stat. 2402; Pub. L. 108-136, div. A, title IX, § 921(e)(4), Nov. 24, 2003, 117 Stat. 1569, which related to protection of operational files of the National Geospatial-Intelligence Agency, was renumbered section 702 of act July 26, 1947, by Pub. L. 108-136, div. A, title IX, § 922(c), Nov. 24, 2003, 117 Stat. 1573, and was transferred to section 432 of this title.

§ 403-5d. Foreign intelligence information

(1) In general

Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined in section 401a of this title) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information. Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, do-

mestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.

(2) Definition

In this section, the term “foreign intelligence information” means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

(Pub. L. 107-56, title II, § 203(d), Oct. 26, 2001, 115 Stat. 281; Pub. L. 107-296, title VIII, § 897(a), Nov. 25, 2002, 116 Stat. 2257.)

CODIFICATION

Section was enacted as part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or USA PATRIOT Act, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2002—Par. (1). Pub. L. 107-296 inserted at end “Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appro-

appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue."

CHANGE OF NAME

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

§ 403-5e. Transferred

CODIFICATION

Section, act July 26, 1947, ch. 343, title I, §105D, as added Pub. L. 107-306, title V, §502(a), Nov. 27, 2002, 116 Stat. 2405, which related to protection of operational files of the National Reconnaissance Office, was renumbered section 703 of act July 26, 1947, by Pub. L. 108-136, div. A, title IX, §922(c), Nov. 24, 2003, 117 Stat. 1573, and was transferred to section 432a of this title.

§ 403-6. Appointment of officials responsible for intelligence-related activities

(a) Recommendation of DNI in certain appointments

(1) In the event of a vacancy in a position referred to in paragraph (2), the Director of National Intelligence shall recommend to the President an individual for nomination to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

- (A) The Principal Deputy Director of National Intelligence.
- (B) The Director of the Central Intelligence Agency.

(b) Concurrence of DNI in appointments to positions in the intelligence community

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may not fill the vacancy or make the recommendation to the President (as the case may be). In the case in which the Director does not concur in such a recommendation, the Director and the head of the department or agency concerned may advise

the President directly of the intention to withhold concurrence or to make a recommendation, as the case may be.

(2) Paragraph (1) applies to the following positions:

- (A) The Director of the National Security Agency.
- (B) The Director of the National Reconnaissance Office.
- (C) The Director of the National Geospatial-Intelligence Agency.
- (D) The Assistant Secretary of State for Intelligence and Research.
- (E) The Director of the Office of Intelligence of the Department of Energy.
- (F) The Director of the Office of Counterintelligence of the Department of Energy.
- (G) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.
- (H) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.
- (I) The Under Secretary of Homeland Security for Intelligence and Analysis.

(c) Consultation with DNI in certain positions

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

- (A) The Director of the Defense Intelligence Agency.
- (B) The Assistant Commandant of the Coast Guard for Intelligence.
- (C) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28.

(July 26, 1947, ch. 343, title I, §106, as added Pub. L. 102-496, title VII, §706(a), Oct. 24, 1992, 106 Stat. 3195; amended Pub. L. 103-359, title V, §501(a)(3), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104-293, title VIII, §815(a), Oct. 11, 1996, 110 Stat. 3484; Pub. L. 107-108, title III, §308, Dec. 28, 2001, 115 Stat. 1399; Pub. L. 108-136, div. A, title IX, §921(e)(5), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 108-177, title I, §105(c), Dec. 13, 2003, 117 Stat. 2603; Pub. L. 108-458, title I, §1014, Dec. 17, 2004, 118 Stat. 3663; Pub. L. 109-177, title V, §506(a)(4), Mar. 9, 2006, 120 Stat. 247; Pub. L. 110-53, title V, §531(b)(5), Aug. 3, 2007, 121 Stat. 334.)

AMENDMENTS

2007—Subsec. (b)(2)(I). Pub. L. 110-53 amended subpar. (I) generally. Prior to amendment, subpar. (I) read as follows: "The Assistant Secretary of Homeland Security for Information Analysis."

2006—Subsec. (c)(2)(C). Pub. L. 109-177 added subpar. (C).

2004—Pub. L. 108-458 amended text generally, substituting provisions relating to involvement of Director of National Intelligence in appointments, consisting of subsecs. (a) to (c), for provisions relating to involvement of Director of Central Intelligence in appointments, consisting of subsecs. (a) and (b).