

the Director determines that the waiver is in the national security interests of the United States.

(2) The Director shall submit to appropriate committees of Congress a report on each exercise of the waiver authority in paragraph (1).

(3) Each report under paragraph (2) with respect to the exercise of authority under paragraph (1) shall set forth the following:

(A) The covered element of the Department of State addressed by the waiver.

(B) The reasons for the waiver.

(C) The actions that will be taken to bring such element into full compliance with the directives referred to in subsection (a), including a schedule for completion of such actions.

(D) The actions taken by the Director to protect any covered classified material to be handled, retained, or stored by such element pending achievement of full compliance of such element with such directives.

(f) Definitions

In this section:

(1) The term “appropriate committees of Congress” means the following:

(A) The Select Committee on Intelligence and the Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives.

(2) The term “covered classified material” means any material classified at the Sensitive Compartmented Information (SCI) level.

(3) The term “covered element of the Department of State” means each element of the Department of State that handles, retains, or stores covered classified material.

(4) The term “material” means any data, regardless of physical form or characteristic, including written or printed matter, automated information systems storage media, maps, charts, paintings, drawings, films, photographs, engravings, sketches, working notes, papers, reproductions of any such things by any means or process, and sound, voice, magnetic, or electronic recordings.

(5) The term “Sensitive Compartmented Information (SCI) level”, in the case of classified material, means a level of classification for information in such material concerning or derived from intelligence sources, methods, or analytical processes that requires such information to be handled within formal access control systems established by the Director of Central Intelligence.

(Pub. L. 106-567, title III, §309, Dec. 27, 2000, 114 Stat. 2840.)

CODIFICATION

Section was formerly classified to section 435a of this title prior to editorial reclassification and renumbering as this section.

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 Na-

tional 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 3001 of this title.

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 3346. Compilation and organization of previously declassified records

(a), (b) Omitted

(c) Compilation and organization of records

The Department of Defense may not be required, when conducting a special search, to compile or organize records that have already been declassified and placed into the public domain.

(d) Special searches

For the purpose of this section, the term “special search” means the response of the Department of Defense to any of the following:

(1) A statutory requirement to conduct a declassification review on a specified set of agency records.

(2) An Executive order to conduct a declassification review on a specified set of agency records.

(3) An order from the President or an official with delegated authority from the President to conduct a declassification review on a specified set of agency records.

(Pub. L. 106-398, §1 [[div. A], title X, §1075], Oct. 30, 2000, 114 Stat. 1654, 1654A-280.)

REFERENCES IN TEXT

This section, referred to in subsec. (d), is section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. See Codification note below.

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

Section is comprised of section 1075 of H.R. 5408 of the 106th Congress, as introduced on Oct. 6, 2000, and as enacted into law by section 1 of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654. Subsec. (a) of section 1075 amended former section 230 of Title 10, Armed Forces and subsec. (b) of section 1075 was not classified to the Code.

§ 3347. Secrecy agreements used in intelligence activities

Notwithstanding any other provision of law not specifically referencing this section, a non-disclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum—

(1) require that the person will not disclose any classified information received in the course of such activity unless specifically au-

thorized to do so by the United States Government; and

(2) provide that the form or agreement does not bar—

(A) disclosures to Congress; or

(B) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

(Pub. L. 104-93, title III, §306, Jan. 6, 1996, 109 Stat. 966.)

CODIFICATION

Section was formerly classified as a note under section 435 of this title prior to editorial reclassification as this section.

§ 3348. Reports relating to certain special access programs and similar programs

(a) In general

(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress a report on each special access program carried out in the department or agency.

(2) Each such report shall set forth—

(A) the total amount requested by the department or agency for special access programs within the budget submitted under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted; and

(B) for each program in such budget that is a special access program—

(i) a brief description of the program;

(ii) in the case of a procurement program, a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(b) Newly designated programs

(1) Not later than February 1 of each year, the head of each covered department or agency shall submit to Congress a report that, with respect to each new special access program of that department or agency, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification, as applicable, of existing programs or technologies that are similar to the technology, or that have a mission similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term “new special access program” means a special access program

that has not previously been covered in a notice and justification under this subsection.

(c) Revision in classification of programs

(1) Whenever a change in the classification of a special access program of a covered department or agency is planned to be made or whenever classified information concerning a special access program of a covered department or agency is to be declassified and made public, the head of the department or agency shall submit to Congress a report containing a description of the proposed change or the information to be declassified, the reasons for the proposed change or declassification, and notice of any public announcement planned to be made with respect to the proposed change or declassification.

(2) Except as provided in paragraph (3), a report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change, declassification, or public announcement is to occur.

(3) If the head of the department or agency determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change, declassification, or public announcement concerning a special access program of the department or agency, the head of the department or agency may submit the report required by paragraph (1) regarding the proposed change, declassification, or public announcement at any time before the proposed change, declassification, or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) Revision of criteria for designating programs

Whenever there is a modification or termination of the policy and criteria used for designating a program of a covered department or agency as a special access program, the head of the department or agency shall promptly notify Congress of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e) Waiver of reporting requirement

(1) The head of a covered department or agency may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the head of the department or agency determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) If the head of a department or agency exercises the authority provided under paragraph (1), the head of the department or agency shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, to Congress.

(f) Initiation of programs

A special access program may not be initiated by a covered department or agency until—

(1) the appropriate oversight committees are notified of the program; and