

tion 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

#### SAFEGUARD OF OBJECTIVITY IN INTELLIGENCE ANALYSIS

Pub. L. 108-458, title I, §1020, Dec. 17, 2004, 118 Stat. 3672, provided that:

“(a) IN GENERAL.—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 Effective Date of 2004 Amendment; Transition Provisions note set out under section 3001 of this title], the Director of National Intelligence shall identify an individual within the Office of the Director of National Intelligence who shall be available to analysts within the Office of the Director of National Intelligence to counsel, conduct arbitration, offer recommendations, and, as appropriate, initiate inquiries into real or perceived problems of analytic tradecraft or politicization, biased reporting, or lack of objectivity in intelligence analysis.

“(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the implementation of subsection (a).”

### § 3365. 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 3003 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, 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 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 formerly classified to section 403-5d of this title prior to editorial reclassification and renumbering as this section.

#### 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 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 3001 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.

**§ 3366. Authorities of heads of other departments and agencies**

Notwithstanding any other provision of law, the head of any department or agency of the United States is authorized to receive and utilize funds made available to the department or agency by the Director of National Intelligence pursuant to section 3024(d)(2) of this title, as amended by subsection (a), and receive and utilize any system referred to in such section that is made available to such department or agency.

(Pub. L. 111-259, title IV, § 402(b), Oct. 7, 2010, 124 Stat. 2709.)

## REFERENCES IN TEXT

Subsection (a), referred to in text, is subsec. (a) of section 402 of Pub. L. 111-259, title IV, Oct. 7, 2010, 124 Stat. 2708, which amended section 403-1 of this title prior to editorial reclassification and renumbering as section 3024 of this title.

## CODIFICATION

Section was formerly classified as a note under section 403-1 of this title prior to editorial reclassification as this section.

**§ 3367. Requirement for efficient use by intelligence community of open-source intelligence**

The Director of National Intelligence shall ensure that the intelligence community makes efficient and effective use of open-source information and analysis.

(Pub. L. 108-458, title I, § 1052(b), Dec. 17, 2004, 118 Stat. 3683.)

## CODIFICATION

Section was formerly classified as a note under section 403-1 of this title prior to editorial reclassification as this section.

SUBCHAPTER V—MANAGEMENT OF COUNTERINTELLIGENCE ACTIVITIES

**§ 3381. Coordination of counterintelligence activities**

**(a) Establishment of Counterintelligence Policy Board**

There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the “Board”). The Board shall report to the President through the National Security Council.

**(b) Chairperson**

The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 [50 U.S.C. 3382] shall serve as the chairperson of the Board.

**(c) Membership**

The membership of the National Counterintelligence Policy Board shall consist of the following:

(1) The National Counterintelligence Executive.

(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

(A) The Department of Justice, including the Federal Bureau of Investigation.

(B) The Department of Defense, including the Joint Chiefs of Staff.

(C) The Department of State.

(D) The Department of Energy.

(E) The Central Intelligence Agency.

(F) Any other department, agency, or element of the United States Government specified by the President.

**(d) Functions and discharge of functions**

(1) The Board shall—

(A) serve as the principal mechanism for—

(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

(B) act as an interagency working group to—

(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

(ii) provide advice to the National Counterintelligence Executive on priorities in the implementation of the National Counterintelligence Strategy produced by the Office of the National Counterintelligence Executive under section 904(e)(2) of that Act.<sup>1</sup>

(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.

**(e) Coordination of counterintelligence matters with Federal Bureau of Investigation**

(1) Except as provided in paragraph (5), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of

<sup>1</sup> See References in Text note below.