

Subsec. (e)(1). Pub. L. 115-118, §110(a)(5), inserted “contractor employee,” after “any employee.”.

POLICIES AND PROCEDURES; NONAPPLICABILITY TO CERTAIN TERMINATIONS

Pub. L. 113-126, title VI, §604, July 7, 2014, 128 Stat. 1421, provided that:

“(a) COVERED INTELLIGENCE COMMUNITY ELEMENT DEFINED.—In this section, the term ‘covered intelligence community element’—

“(1) means—

“(A) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

“(B) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

“(2) does not include the Federal Bureau of Investigation.

“(b) REGULATIONS.—In consultation with the Secretary of Defense, the Director of National Intelligence shall develop policies and procedures to ensure that a personnel action shall not be taken against an employee of a covered intelligence community element as a reprisal for any disclosure of information described in [section] 1104 of the National Security Act of 1947 [50 U.S.C. 3234], as added by section 601 of this Act.

“(c) REPORT ON THE STATUS OF IMPLEMENTATION OF REGULATIONS.—Not later than 2 years after the date of the enactment of this Act [July 7, 2014], the Director of National Intelligence shall submit a report on the status of the implementation of the regulations promulgated under subsection (b) to the congressional intelligence committees.

“(d) NONAPPLICABILITY TO CERTAIN TERMINATIONS.—Section 1104 of the National Security Act of 1947, as added by section 601 of this Act, and section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341), as amended by section 602 of this Act, shall not apply if—

“(1) the affected employee is concurrently terminated under—

“(A) section 1609 of title 10, United States Code;

“(B) the authority of the Director of National Intelligence under section 102A(m) of the National Security Act of 1947 (50 U.S.C. 3024(m)), if the Director determines that the termination is in the interest of the United States;

“(C) the authority of the Director of the Central Intelligence Agency under section 104A(e) of the National Security Act of 1947 (50 U.S.C. 3036(e)), if the Director determines that the termination is in the interest of the United States; or

“(D) section 7532 of title 5, United States Code, if the head of the agency determines that the termination is in the interest of the United States; and

“(2) not later than 30 days after such termination, the head of the agency that employed the affected employee notifies the congressional intelligence committees of the termination.”

[For definition of “congressional intelligence committees” as used in section 604 of Pub. L. 113-126, set out above, see section 2 of Pub. L. 113-126, set out as a note under section 3003 of this title.]

§ 3235. Semiannual reports on investigations of unauthorized disclosures of classified information

(a) Definitions

In this section:

(1) Covered official

The term “covered official” means—

(A) the heads of each element of the intelligence community; and

(B) the inspectors general with oversight responsibility for an element of the intelligence community.

(2) Investigation

The term “investigation” means any inquiry, whether formal or informal, into the existence of an unauthorized public disclosure of classified information.

(3) Unauthorized disclosure of classified information

The term “unauthorized disclosure of classified information” means any unauthorized disclosure of classified information to any recipient.

(4) Unauthorized public disclosure of classified information

The term “unauthorized public disclosure of classified information” means the unauthorized disclosure of classified information to a journalist or media organization.

(b) Intelligence community reporting

(1) In general

Not less frequently than once every 6 months, each covered official shall submit to the congressional intelligence committees a report on investigations of unauthorized public disclosures of classified information.

(2) Elements

Each report submitted under paragraph (1) shall include, with respect to the preceding 6-month period, the following:

(A) The number of investigations opened by the covered official regarding an unauthorized public disclosure of classified information.

(B) The number of investigations completed by the covered official regarding an unauthorized public disclosure of classified information.

(C) Of the number of such completed investigations identified under subparagraph (B), the number referred to the Attorney General for criminal investigation.

(c) Department of Justice reporting

(1) In general

Not less frequently than once every 6 months, the Assistant Attorney General for National Security of the Department of Justice, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report on the status of each referral made to the Department of Justice from any element of the intelligence community regarding an unauthorized disclosure of classified information made during the most recent 365-day period or any referral that has not yet been closed, regardless of the date the referral was made.

(2) Contents

Each report submitted under paragraph (1) shall include, for each referral covered by the report, at a minimum, the following:

(A) The date the referral was received.

(B) A statement indicating whether the alleged unauthorized disclosure described in the referral was substantiated by the Department of Justice.

(C) A statement indicating the highest level of classification of the information that was revealed in the unauthorized disclosure.

(D) A statement indicating whether an open criminal investigation related to the referral is active.

(E) A statement indicating whether any criminal charges have been filed related to the referral.

(F) A statement indicating whether the Department of Justice has been able to attribute the unauthorized disclosure to a particular entity or individual.

(d) Form of reports

Each report submitted under this section shall be submitted in unclassified form, but may have a classified annex.

(July 26, 1947, ch. 343, title XI, §1105, as added Pub. L. 116-92, div. E, title LXVII, §6718(a), Dec. 20, 2019, 133 Stat. 2228.)

§ 3236. Inspector General external review panel

(a) Request for review

An individual with a claim described in subsection (b) may submit to the Inspector General of the Intelligence Community a request for a review of such claim by an external review panel convened under subsection (c).

(b) Claims and individuals described

A claim described in this subsection is any—

(1) claim by an individual—

(A) that the individual has been subjected to a personnel action that is prohibited under section 3234 of this title; and

(B) who has exhausted the applicable review process for the claim pursuant to enforcement of such section; or

(2) claim by an individual—

(A) that he or she has been subjected to a reprisal prohibited by paragraph (1) of section 3341(j) of this title; and

(B) who received a decision on an appeal regarding that claim under paragraph (4) of such section.

(c) External review panel convened

(1) Discretion to convene

Upon receipt of a request under subsection (a) regarding a claim, the Inspector General of the Intelligence Community may, at the discretion of the Inspector General, convene an external review panel under this subsection to review the claim.

(2) Membership

(A) Composition

An external review panel convened under this subsection shall be composed of three members as follows:

(i) The Inspector General of the Intelligence Community.

(ii) Except as provided in subparagraph (B), two members selected by the Inspector

General as the Inspector General considers appropriate on a case-by-case basis from among inspectors general of the following:

(I) The Department of Defense.

(II) The Department of Energy.

(III) The Department of Homeland Security.

(IV) The Department of Justice.

(V) The Department of State.

(VI) The Department of the Treasury.

(VII) The Central Intelligence Agency.

(VIII) The Defense Intelligence Agency.

(IX) The National Geospatial-Intelligence Agency.

(X) The National Reconnaissance Office.

(XI) The National Security Agency.

(B) Limitation

An inspector general of an agency may not be selected to sit on the panel under subparagraph (A)(ii) to review any matter relating to a decision made by such agency.

(C) Chairperson

(i) In general

Except as provided in clause (ii), the chairperson of any panel convened under this subsection shall be the Inspector General of the Intelligence Community.

(ii) Conflicts of interest

If the Inspector General of the Intelligence Community finds cause to recuse himself or herself from a panel convened under this subsection, the Inspector General of the Intelligence Community shall—

(I) select a chairperson from inspectors general of the elements listed under subparagraph (A)(ii) whom the Inspector General of the Intelligence Community considers appropriate; and

(II) notify the congressional intelligence committees of such selection.

(3) Period of review

Each external review panel convened under this subsection to review a claim shall complete review of the claim no later than 270 days after the date on which the Inspector General convenes the external review panel.

(d) Remedies

(1) Panel recommendations

If an external review panel convened under subsection (c) determines, pursuant to a review of a claim submitted by an individual under subsection (a), that the individual was the subject of a personnel action prohibited under section 3234 of this title or was subjected to a reprisal prohibited by section 3341(j)(1) of this title, the panel may recommend that the agency head take corrective action—

(A) in the case of an employee or former employee—

(i) to return the employee or former employee, as nearly as practicable and reasonable, to the position such employee or former employee would have held had the reprisal not occurred; or