

2011, 124 Stat. 4314, 4322; amended Pub. L. 112–81, div. A, title VIII, §855, Dec. 31, 2011, 125 Stat. 1521; Pub. L. 112–239, div. A, title IX, §901(a), (b), title X, §1076(a)(13), (b)(3), Jan. 2, 2013, 126 Stat. 1863, 1864, 1948, 1949; Pub. L. 114–328, div. A, title X, §1081(b)(4)(A), Dec. 23, 2016, 130 Stat. 2419, related to Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

A prior section 139c was renumbered section 139a of this title.

Another prior section 139c was renumbered section 2434 of this title.

[[§ 139d, 139e. Renumbered §§ 139b, 139c]

§ 140. General Counsel

(a) There is a General Counsel of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel is the chief legal officer of the Department of Defense. He shall perform such functions as the Secretary of Defense may prescribe.

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 519, §137; amended Pub. L. 88–426, title III, §305(9), Aug. 14, 1964, 78 Stat. 423; renumbered §139 and amended Pub. L. 99–433, title I, §§101(a)(7), 110(d)(11), Oct. 1, 1986, 100 Stat. 995, 1003; renumbered §140, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
137(a)	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4 (1st 25 words of 1st sentence), 67 Stat. 639].	1953 Reorg. Plan No. 6, eff. June 30, 1953, §4, 67 Stat. 639.
137(b)	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4 (1st sentence, less 1st 25 words), 67 Stat. 639].	
137(c)	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, §4 (2d sentence), 67 Stat. 639].	

In subsection (b), the words “from time to time” are omitted as surplusage.

Editorial Notes

PRIOR PROVISIONS

A prior section 140 was renumbered section 141 of this title.

Another prior section 140 was renumbered section 127 of this title.

AMENDMENTS

1993—Pub. L. 103–160 renumbered section 139 of this title as this section.

1986—Pub. L. 99–433, §§101(a)(7), 110(d)(11), renumbered section 137 of this title as this section, and struck out “: powers and duties” at end of section catchline.

1964—Subsec. (c). Pub. L. 88–426 repealed subsec. (c) which related to compensation of General Counsel. See section 5315 of Title 5, Government Organization and Employees.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1964 AMENDMENT

For effective date of amendment by Pub. L. 88–426, see section 501 of Pub. L. 88–426.

§ 140a. Renumbered § 422]

Editorial Notes

PRIOR PROVISIONS

A prior section 140a was renumbered section 421 of this title.

§ 140b. Renumbered § 423]

Editorial Notes

PRIOR PROVISIONS

A prior section 140b was renumbered section 129 of this title.

§ 140c. Renumbered § 130]

§ 141. Inspector General

(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App. 3).

(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.

(Added Pub. L. 99–433, title I, §108, Oct. 1, 1986, 100 Stat. 998, §140; renumbered §141, Pub. L. 103–160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

Editorial Notes

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 141 was renumbered section 138d of this title.

Another prior section 141 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

AMENDMENTS

1993—Pub. L. 103–160 renumbered section 140 of this title as this section.

Statutory Notes and Related Subsidiaries

INSPECTOR GENERAL OVERSIGHT OF DIVERSITY AND INCLUSION IN DEPARTMENT OF DEFENSE; SUPREMACIST, EXTREMIST, OR CRIMINAL GANG ACTIVITY IN THE ARMED FORCES

Pub. L. 116–283, div. A, title V, §554, Jan. 1, 2021, 134 Stat. 3633, as amended by Pub. L. 117–81, div. A, title V, §549K, Dec. 27, 2021, 135 Stat. 1731, provided that:

“(a) ESTABLISHMENT OF ADDITIONAL ASSISTANT INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Inspector General of the Department of Defense shall appoint, in the Office of the Inspector General of the Department of Defense, an additional Assistant Inspector General who—

“(A) shall be a member of the Senior Executive Service; and

“(B) shall be under the authority, direction, and control of the Inspector General.

“(2) DUTIES.—Subject to the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App.), the Deputy Inspector General shall have the following duties:

“(A) Developing and carrying out a plan for the conduct of comprehensive oversight, including through the conduct and supervision of audits, investigations, and inspections, of policies, programs, systems, and processes of the Department—

“(i) to determine the effect of such policies, programs, systems, and processes regarding personnel on diversity and inclusion in the Department; and

“(ii) to prevent and respond to supremacist, extremist, and criminal gang activity of a member of the Armed Forces.

“(B) Additional duties prescribed by the Inspector General.

“(3) COORDINATION OF EFFORTS.—In carrying out the duties under paragraph (2), the Assistant Inspector General shall coordinate with, and receive the cooperation of the following:

“(A) The Inspector General of the Army.

“(B) The Inspector General of the Navy.

“(C) The Inspector General of the Air Force.

“(D) The other Deputy Inspectors General of the Department.

“(4) REPORTS.—

“(A) ONE-TIME REPORT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing, with respect to the Assistant Inspector General appointed under this subsection:

“(i) the duties and responsibilities to be assigned to such Assistant Inspector General;

“(ii) the organization, structure, staffing, and funding of the office established to support such Assistant Inspector General in the execution of such duties and responsibilities;

“(iii) challenges to the establishment of such Assistant Inspector General and such office, including any shortfalls in personnel and funding; and

“(iv) the date by which the Inspector General expects such Assistant Inspector General and the office will reach full operational capability.

“(B) SEMIANNUAL REPORTS.—Not later than 30 days after the end of the second and fourth quarters of each fiscal year beginning in fiscal year 2022, the Inspector General shall submit to the Secretary a report including a summary of the activities of the Assistant Inspector General during the two fiscal quarters preceding the date of the report, for inclusion in the next semiannual report of the Inspector General under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).[sic]

“(C) ANNUAL REPORTS.—The Inspector General shall submit, through the Secretary, to the Committees on Armed Services of the Senate and the House of Representatives annual reports presenting findings and recommendations regarding—

“(i) the effects of policies, programs, systems, and processes of the Department, regarding personnel, on diversity and inclusion in the Department; and

“(ii) the effectiveness of such policies, programs, systems, and processes in preventing and responding to supremacist, extremist, and criminal gang activity of a member of the Armed Forces.

“(D) OCCASIONAL REPORTS.—The Inspector General shall, from time to time, submit to the Secretary additional reports as the Inspector General may determine.

“(E) ONLINE PUBLICATION.—The Inspector General shall publish each report under this paragraph on a publicly accessible website consistent with the requirements of the Inspector General Act of 1978 (5 U.S.C. App.).[sic]

“(b) ESTABLISHMENT OF STANDARD POLICIES, PROCESSES, TRACKING MECHANISMS, AND REPORTING REQUIREMENTS FOR SUPREMACIST, EXTREMIST, AND CRIMINAL GANG ACTIVITY IN CERTAIN ARMED FORCES.—

“(1) IN GENERAL.—The Secretary of Defense shall establish policies, processes, and mechanisms, standard across the covered Armed Forces, that ensure that—

“(A) all allegations (and related information) that a member of a covered Armed Force has engaged in a prohibited activity, are referred to the Inspector General of the Department of Defense;

“(B) the Inspector General can document and track the referral, for purposes of an investigation or inquiry of an allegation described in paragraph (1), to—

“(i) a military criminal investigative organization;

“(ii) an inspector general;

“(iii) a military police or security police organization;

“(iv) a military commander;

“(v) another organization or official of the Department; or

“(vi) a civilian law enforcement organization or official;

“(C) the Inspector General can document and track the referral, to a military commander or other appropriate authority, of the final report of an investigation or inquiry described in subparagraph (B) for action;

“(D) the Inspector General can document the determination of whether a member described in subparagraph (A) engaged in prohibited activity;

“(E) the Inspector General can document whether a member of a covered Armed Force was subject to action (including judicial, disciplinary, adverse, or corrective administrative action) or no action, as the case may be, based on a determination described in subparagraph (D); and

“(F) the Inspector General can provide, or track the referral to a civilian law enforcement agency of, any information described in this paragraph.

“(2) REPORT.—Not later than December 1 of each year beginning after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the appropriate congressional committees a report on the policies, processes, and mechanisms implemented under paragraph (1). Each report shall include, with respect to the fiscal year preceding the date of the report, the following:

“(A) The total number of referrals received by the Inspector General under paragraph (1)(A);

“(B) The total number of investigations and inquiries conducted pursuant to a referral described in paragraph (1)(B);

“(C) The total number of members of a covered Armed Force who, on the basis of determinations described in paragraph (1)(D) that the members engaged in prohibited activity, were subject to action described in paragraph (1)(E), including—

“(i) court-martial,

“(ii) other criminal prosecution,

“(iii) non-judicial punishment under Article 15 of the Uniform Code of Military Justice [10 U.S.C. 815]; or

“(iv) administrative action, including involuntary discharge from the Armed Forces, a denial of reenlistment, or counseling.

“(D) The total number of members of a covered Armed Force described in paragraph (1)(A) who were not subject to action described in paragraph (1)(E), notwithstanding determinations described in paragraph (1)(D) that such members engaged in prohibited activity.

“(E) The total number of referrals described in paragraph (1)(F).

“(3) DEFINITIONS.—In this subsection:

“(A) The term ‘appropriate congressional committees’ means—

“(i) the Committee on the Judiciary and the Committee on Armed Services of the Senate; and

“(ii) the Committee on the Judiciary and the Committee on Armed Services of the House of Representatives.

“(B) The term ‘covered Armed Force’ means an Armed Force under the jurisdiction of the Secretary of a military department.

“(C) The term ‘prohibited activity’ means an activity prohibited under Department of Defense Instruction 1325.06, titled ‘Handling Dissident and Protest Activities Among Members of the Armed Forces’, or any successor instruction.”

[Pub. L. 117–81, § 549K, which directed amendment of section 554(a) of Pub. L. 116–283, set out above, by substituting “ASSISTANT” for “DEPUTY” in section heading, was executed by substituting “Assistant” for “Deputy” in subsec. heading, to reflect the probable intent of Congress.]

§ 142. Chief Information Officer

(a) There is a Chief Information Officer of the Department of Defense, who shall be appointed by the President, by and with the advice and consent of the Senate, from among civilians who are qualified to serve as such officer.

(b)(1) The Chief Information Officer of the Department of Defense—

(A) is the Chief Information Officer of the Department of Defense for the purposes of sections 3506(a)(2) and 3544(a)(3) of title 44;

(B) has the responsibilities and duties specified in sections 11315 and 11319 of title 40;

(C) has the responsibilities specified for the Chief Information Officer in sections 2223(a) and 2224 of this title;

(D) exercises authority, direction, and control over the Activities of the Cybersecurity Directorate, or any successor organization, of the National Security Agency, funded through the Information Systems Security Program;

(E) exercises authority, direction, and control over the Defense Information Systems Agency, or any successor organization;

(F) has the responsibilities for policy, oversight, guidance, and coordination for all Department of Defense matters related to electromagnetic spectrum, including coordination with other Federal and industry agencies, coordination for classified programs, and in coordination with the Under Secretary for Personnel and Readiness, policies related to spectrum management workforce;

(G) has the responsibilities for policy, oversight, and guidance for matters related to precision navigation and timing; and

(H) has the responsibilities for policy, oversight, and guidance for the architecture and programs related to the information technology, networking, information assurance, cybersecurity, and cyber capability architectures of the Department.

(2)(A) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require the Secretaries of the military departments and the heads of the Defense Agencies with responsibilities associated with any activity specified in paragraph (1) to transmit the proposed budget for such activities for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Chief Information Officer for review under subparagraph (B) before submitting the proposed budget to the Under Secretary of Defense (Comptroller).

(B) The Chief Information Officer shall review each proposed budget transmitted under sub-

paragraph (A) and, not later than January 31 of the year preceding the fiscal year for which the budget is proposed, shall submit to the Secretary of Defense a report containing the comments of the Chief Information Officer with respect to all such proposed budgets, together with the certification of the Chief Information Officer regarding whether each proposed budget is adequate.

(C) Not later than March 31 of each year, the Secretary of Defense shall submit to Congress a report specifying each proposed budget contained in the most-recent report submitted under subparagraph (B) that the Chief Information Officer did not certify to be adequate. The report of the Secretary shall include the following matters:

(i) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets specified in the report.

(ii) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(3)(A) The Secretary of a military department or head of a Defense Agency may not develop or procure information technology (as defined in section 11101 of title 40) that does not fully comply with such standards as the Chief Information Officer may establish.

(B) The Chief Information Officer shall implement and enforce a process for—

(i) developing, adopting, or publishing standards for information technology, networking, or cyber capabilities to which any military department or defense agency would need to adhere in order to run such capabilities on defense networks; and

(ii) certifying on a regular and ongoing basis that any capabilities being developed or procured meets such standards as have been published by the Department at the time of certification.

(C) The Chief Information Officer shall identify gaps in standards and mitigation plans for operating in the absence of acceptable standards.

(4) The Chief Information Officer shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Chief Information Officer takes precedence in the Department of Defense with the officials serving in positions specified in section 131(b)(4) of this title. The officials serving in positions specified in section 131(b)(4) and the Chief Information Officer of the Department of Defense take precedence among themselves in the order prescribed by the Secretary of Defense.

(d) The Chief Information Officer of the Department of Defense shall report directly to the Secretary of Defense in the performance of duties under this section.

(Added and amended Pub. L. 113–291, div. A, title IX, § 901(b)(1), (j)(1)(B), Dec. 19, 2014, 128 Stat. 3463, 3467; Pub. L. 114–328, div. A, title IX, § 902(a), Dec. 23, 2016, 130 Stat. 2343; Pub. L. 115–91, div. A, title IX, § 909(a)–(d), title X,