

(ii) develop, acquire, and field intelligence, surveillance, and reconnaissance systems that, by enabling more accurate battlespace awareness, contribute to the protection of civilians;

(iii) develop, acquire, and field weapon systems and other technological capabilities that further enable the discriminate use of force in different operational contexts;

(iv) take feasible precautions in conducting attacks to reduce the likelihood of civilian casualties, such as providing warnings to the civilian population (unless the circumstances do not permit), adjusting the timing of attacks, taking steps to ensure military objectives and civilians are clearly distinguished, and taking other measures appropriate to the circumstances; and

(v) conduct assessments that assist in the reduction of civilian casualties by identifying risks to civilians and evaluating efforts to reduce risks to civilians.

(b) In addition to the responsibilities above, relevant agencies shall also, as appropriate and consistent with mission objectives and applicable law, including the law of armed conflict:

(i) review or investigate incidents involving civilian casualties, including by considering relevant and credible information from all available sources, such as other agencies, partner governments, and nongovernmental organizations, and take measures to mitigate the likelihood of future incidents of civilian casualties;

(ii) acknowledge U.S. Government responsibility for civilian casualties and offer condolences, including ex gratia payments, to civilians who are injured or to the families of civilians who are killed;

(iii) engage with foreign partners to share and learn best practices for reducing the likelihood of and responding to civilian casualties, including through appropriate training and assistance; and

(iv) maintain channels for engagement with the International Committee of the Red Cross and other nongovernmental organizations that operate in conflict zones and encourage such organizations to assist in efforts to distinguish between military objectives and civilians, including by appropriately marking protected facilities, vehicles, and personnel, and by providing updated information on the locations of such facilities and personnel.

SEC. 3. *Report on Strikes Undertaken by the U.S. Government Against Terrorist Targets Outside Areas of Active Hostilities.* [Revoked by Ex. Ord. No. 13862, §2, Mar. 6, 2019, 84 F.R. 8789.]

SEC. 4. *Periodic Consultation.* In furtherance of the policies and practices set forth in this order, the Assistant to the President for National Security Affairs, through the National Security Council staff, will convene agencies with relevant defense, counterterrorism, intelligence, legal, civilian protection, and technology expertise to consult on civilian casualty trends, consider potential improvements to U.S. Government civilian casualty mitigation efforts, and, as appropriate, report to the Deputies and Principals Committees, consistent with Presidential Policy Directive 1 or its successor. Specific incidents will not be considered in this context, and will continue to be examined within relevant chains of command.

SEC. 5. *General Provisions.* (a) The policies and practices set forth above are not intended to alter, and shall be implemented consistent with, the authority and responsibility of commanders and other U.S. personnel to execute their mission as directed by the President or other appropriate authorities, which necessarily includes the inherent right of self-defense and the maintenance of good order and discipline among U.S. personnel. No part of this order modifies the chain of command of the U.S. Armed Forces or the authority of U.S. commanders.

(b) No part of this order modifies priorities in the collection of intelligence or the development, acquisition, or fielding of weapon systems and other technological capabilities.

(c) No part of this order shall prejudice or supplant established procedures pertaining to administrative or

criminal investigative or judicial processes in the context of the military justice system or other applicable law and regulation.

(d) The policies set forth in this order are consistent with existing U.S. obligations under international law and are not intended to create new international legal obligations; nor shall anything in this order be construed to derogate from obligations under applicable law, including the law of armed conflict.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

EFFECTIVE DATES OF PROVISIONS IN TITLE I OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of Energy[,] the Secretary of Homeland Security[,] the Director of the Office of Management and Budget[,] and] the Director of National Intelligence

Subsection 1097(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458, December 17, 2004) (the Act) [set out in a note above] provides:

(a) IN GENERAL- Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect not later than 6 months after the date of the enactment of this Act.

Subsection 1097(a) clearly contemplates that one or more of the provisions in Title I of the Act may take effect earlier than the date that is 6 months after the date of enactment of the Act, but does not state explicitly the mechanism for determining when such earlier effect shall occur, leaving it to the President in the execution of the Act. Moreover, given that section 1097(a) evinces a legislative intent to afford the President flexibility, and such flexibility is constitutionally appropriate with respect to intelligence matters (see *United States v. Curtiss-Wright Export Corporation*, 299 U.S. 304 (1936)), the executive branch shall construe section 1097(a) to authorize the President to select different effective dates that precede the 6-month deadline for different provisions in Title I.

Therefore, pursuant to the Constitution and the laws of the United States of America, including subsection 1097(a) of the Act, I hereby determine and direct:

1. Sections 1097(a) and 1103 of the Act [set out in notes above], relating respectively to effective dates of provisions and to severability, shall take effect immediately upon the signing of this memorandum to any extent that they have not already taken effect.

2. Provisions in Title I of the Act other than those addressed in numbered paragraph 1 of this memorandum shall take effect immediately upon the signing of this memorandum, except:

(a) any provision in Title I of the Act for which the Act expressly provides the date on which the provision shall take effect; and

(b) sections 1021 and 1092 of the Act [enacting section 3056 of this title and provisions set out in a note above, respectively], relating to the National Counterterrorism Center.

The taking of effect of a provision pursuant to section 1097(a) of the Act and this memorandum shall not affect the construction of such provision by the executive branch as set forth in my Statement of December 17, 2004, upon signing the Act into law.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 3002. Congressional declaration of purpose

In enacting this chapter, it is the intent of Congress to provide a comprehensive program

for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.

(July 26, 1947, ch. 343, § 2, 61 Stat. 496; Aug. 10, 1949, ch. 412, § 2, 63 Stat. 579; Pub. L. 85-599, § 2, Aug. 6, 1958, 72 Stat. 514.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this legislation”, meaning act July 26, 1947, ch. 343, 61 Stat. 495, known as the National Security Act of 1947, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 401 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1958—Pub. L. 85-599 amended section generally, and, among other changes, provided that each military department shall be separately organized, instead of separately administered, under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense, and inserted provisions relating to establishment of unified or specified combatant commands and for elimination of unnecessary duplication.

1949—Act Aug. 10, 1949, provided that the military departments shall be separately administered but be under the direction of the Secretary of Defense, and that there shall not be a single Chief of Staff over the armed forces nor an armed forces general staff.

§ 3003. Definitions

As used in this chapter:

(1) The term “intelligence” includes foreign intelligence and counterintelligence.

(2) The term “foreign intelligence” means information relating to the capabilities, inten-

tions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term “counterintelligence” means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term “intelligence community” includes the following:

(A) The Office of the Director of National Intelligence.

(B) The Central Intelligence Agency.

(C) The National Security Agency.

(D) The Defense Intelligence Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The National Reconnaissance Office.

(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy.

(I) The Bureau of Intelligence and Research of the Department of State.

(J) The Office of Intelligence and Analysis of the Department of the Treasury.

(K) The Office of Intelligence and Analysis of the Department of Homeland Security.

(L) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

(5) The terms “national intelligence” and “intelligence related to national security” refer to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that—

(A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and

(B) that involves—

(i) threats to the United States, its people, property, or interests;

(ii) the development, proliferation, or use of weapons of mass destruction; or

(iii) any other matter bearing on United States national or homeland security.

(6) The term “National Intelligence Program” refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of National Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the