

“(10) A plan for the use of the Open-Source Information System for the purpose of exploitation and dissemination of open-source intelligence.”

**ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE IN EXPERIMENTAL PERSONNEL PROGRAM FOR CERTAIN SCIENTIFIC AND TECHNICAL PERSONNEL**

Pub. L. 106-567, title V, §501, Dec. 27, 2000, 114 Stat. 2850, as amended by Pub. L. 108-136, div. A, title IX, §921(g), Nov. 24, 2003, 117 Stat. 1570, provided that: “If the Director of Central Intelligence requests that the Secretary of Defense exercise any authority available to the Secretary under [former] section 1101(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 5 U.S.C. 3104 note) to carry out a program of special personnel management authority at the National Geospatial-Intelligence Agency and the National Security Agency in order to facilitate recruitment of eminent experts in science and engineering at such agencies, the Secretary shall respond to such request not later than 30 days after the date of such request.”

[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.]

**§ 3039. Assistance to United States law enforcement agencies**

**(a) Authority to provide assistance**

Subject to subsection (b), elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

**(b) Limitation on assistance by elements of Department of Defense**

(1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the following:

- (A) The National Security Agency.
- (B) The National Reconnaissance Office.
- (C) The National Geospatial-Intelligence Agency.
- (D) The Defense Intelligence Agency.

(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

**(c) Definitions**

For purposes of subsection (a):

(1) The term “United States law enforcement agency” means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

(2) The term “United States person” means the following:

(A) A United States citizen.

(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

(July 26, 1947, ch. 343, title I, §105A, as added Pub. L. 104-293, title VIII, §814(a), Oct. 11, 1996, 110 Stat. 3483; amended Pub. L. 108-136, div. A, title IX, §921(e)(3), Nov. 24, 2003, 117 Stat. 1569.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 403-5a of this title prior to editorial reclassification and renumbering as this section.

**AMENDMENTS**

2003—Subsec. (b)(1)(C). Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

**§ 3040. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources**

**(a) Disclosure of foreign intelligence**

(1) Except as otherwise provided by law and subject to paragraph (2), the Attorney General, or the head of any other department or agency of the Federal Government with law enforcement responsibilities, shall expeditiously disclose to the Director of National Intelligence, pursuant to guidelines developed by the Attorney General in consultation with the Director, foreign intelligence acquired by an element of the Department of Justice or an element of such department or agency, as the case may be, in the course of a criminal investigation.

(2) The Attorney General by regulation and in consultation with the Director may provide for exceptions to the applicability of paragraph (1) for one or more classes of foreign intelligence, or foreign intelligence with respect to one or more targets or matters, if the Attorney General determines that disclosure of such foreign intelligence under that paragraph would jeopardize an ongoing law enforcement investigation or impair other significant law enforcement interests.

**(b) Procedures for notice of criminal investigations**

Not later than 180 days after October 26, 2001, the Attorney General, in consultation with the Director of National Intelligence, shall develop

guidelines to ensure that after receipt of a report from an element of the intelligence community of activity of a foreign intelligence source or potential foreign intelligence source that may warrant investigation as criminal activity, the Attorney General provides notice to the Director, within a reasonable period of time, of his intention to commence, or decline to commence, a criminal investigation of such activity.

**(c) Procedures**

The Attorney General shall develop procedures for the administration of this section, including the disclosure of foreign intelligence by elements of the Department of Justice, and elements of other departments and agencies of the Federal Government, under subsection (a) and the provision of notice with respect to criminal investigations under subsection (b).

(July 26, 1947, ch. 343, title I, § 105B, as added Pub. L. 107-56, title IX, § 905(a)(2), Oct. 26, 2001, 115 Stat. 388; amended Pub. L. 108-458, title I, § 1071(a)(1)(G), (H), (2)(B), (C), Dec. 17, 2004, 118 Stat. 3689, 3690.)

**Editorial Notes**

**CODIFICATION**

Section was formerly classified to section 403-5b of this title prior to editorial reclassification and renumbering as this section.

**PRIOR PROVISIONS**

A prior section 105B of act July 26, 1947, ch. 343, title I, as added Pub. L. 106-120, title V, § 501(a)(1), Dec. 3, 1999, 113 Stat. 1616, which related to protection of operational files of the National Imagery and Mapping Agency, was renumbered by subsequent acts and transferred. See section 3142 of this title.

**AMENDMENTS**

2004—Subsec. (a)(1). Pub. L. 108-458, § 1071(a)(1)(G), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (a)(2). Pub. L. 108-458, § 1071(a)(2)(B), struck out “of Central Intelligence” after “Director”.

Subsec. (b). Pub. L. 108-458, § 1071(a)(2)(C), struck out “of Central Intelligence” after “notice to the Director”.

Pub. L. 108-458, § 1071(a)(1)(H), substituted “with the Director of National Intelligence” for “with the Director of Central Intelligence”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2004 AMENDMENT**

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 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.

**§ 3041. Appointment of officials responsible for intelligence-related activities**

**(a) Recommendation of DNI in certain appointments**

(1) In the event of a vacancy in a position referred to in paragraph (2), the Director of Na-

tional Intelligence shall recommend to the President an individual for nomination to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

(A) The Principal Deputy Director of National Intelligence.

(B) The Director of the Central Intelligence Agency.

**(b) Concurrence of DNI in appointments to positions in the intelligence community**

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may not fill the vacancy or make the recommendation to the President (as the case may be). In the case in which the Director does not concur in such a recommendation, the Director and the head of the department or agency concerned may advise the President directly of the intention to withhold concurrence or to make a recommendation, as the case may be.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(D) The Assistant Secretary of State for Intelligence and Research.

(E) The Director of the Office of Intelligence and Counterintelligence of the Department of Energy.

(F) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(G) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.

(H) The Under Secretary of Homeland Security for Intelligence and Analysis.

**(c) Consultation with DNI in certain positions**

(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of National Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Defense Intelligence Agency.

(B) The Assistant Commandant of the Coast Guard for Intelligence.

(C) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28.

(July 26, 1947, ch. 343, title I, § 106, as added Pub. L. 102-496, title VII, § 706(a), Oct. 24, 1992, 106