



(Public Law 235 of July 26, 1947; 61 STAT. 496)

An Act To promote the national security by providing for a Secretary of Defense; for a National Military Establishment; for a Department of the Army, a Department of the Navy, and a Department of the Air Force; and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **Short Title**

That this Act may be cited as the “National Security Act of 1947”.

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## Declaration of Policy

Sec. 2. [50 U.S.C. §401]

In enacting this legislation, 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.

## Definitions

Sec. 3. [50 U.S.C. §401a]

As used in this Act:

- (1) The term "intelligence" includes foreign intelligence and counterintelligence.
- (2) The term "foreign intelligence" means information relating to the capabilities, intentions, 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 planning and conduct of tactical military operations by United States Armed Forces.

(7) The term “congressional intelligence committees”

means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

## TITLE I—COORDINATION FOR NATIONAL SECURITY

### National Security Council

Sec. 101. [50 U.S.C. §402]

(a) There is here established a council to be known as the National Security Council (hereinafter in this section referred to as the “Council”). The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place. The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

(1) the President;

- (2) the Vice President;
  - (3) the Secretary of State;
  - (4) the Secretary of Defense;
  - (5) the Secretary of Energy;
  - (6) the Director for Mutual Security;
  - (7) the Chairman of the National Security Resources Board; and
- (8) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.
- (b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—
- (1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and
  - (2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.
- (c) The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.
- (d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.
- (e) The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.
- (f) The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.
- (g) The President shall establish within the National Security Council a board to be known as the "Board for Low Intensity Conflict". The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.
- (h)(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the "Committee").
- (2) The Committee shall be composed of the following:
- (A) The Director of National Intelligence.

- (B) The Secretary of State.
  - (C) The Secretary of Defense.
  - (D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.
  - (E) Such other members as the President may designate.
- (3) The function of the Committee shall be to assist the Council in its activities by—
- (A) identifying the intelligence required to address the national security interests of the United States as specified by the President;
  - (B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and
  - (C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.
- (4) In carrying out its function, the Committee shall—
- (A) conduct an annual review of the national security interests of the United States;
  - (B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and
  - (C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).
- (5) The Committee shall submit each year to the Council and to the Director of National Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).
- (i)(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the “Committee”).
- (2) The Committee shall include the following members:
- (A) The Director of National Intelligence.
  - (B) The Secretary of State.
  - (C) The Secretary of Defense.
  - (D) The Attorney General.
- (E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.
- (F) Such other members as the President may designate.
- (3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combating transnational threats.

(4) In carrying out its function, the Committee shall—

- (A) identify transnational threats;
- (B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);
- (C) monitor implementation of such strategies;
- (D) make recommendations as to appropriate responses to specific transnational threats;
- (E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;
- (F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and
- (G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

(5) For purposes of this subsection, the term “transnational threat” means the following:

- (A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.
- (B) Any individual or group that engages in an activity referred to in subparagraph (A).
- (j) The Director of National Intelligence (or, in the Director’s absence, the Principal Deputy Director of National Intelligence) may, in the performance of the Director’s duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.
- (k) It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.
- (l) Participation of Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.—The United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (or, in the Coordinator’s absence, the Deputy United States Coordinator) may, in the performance of the Coordinator’s duty as principal advisor to the President on all matters relating to the prevention of weapons of mass destruction proliferation and terrorism, and, subject to the direction of the President, attend and participate in meetings of the National Security Council and the Homeland Security Council.

Sec. 101A. [50 U.S.C. §402-1]

(a) Joint Intelligence Community Council.—There is a Joint Intelligence Community Council.

(b) Membership.—The Joint Intelligence Community Council shall consist of the following:

(1) The Director of National Intelligence, who shall chair the Council.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

(8) Such other officers of the United States Government as the President may designate from time to time.

(c) Functions.—The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by—

(1) advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request; and

(2) ensuring the timely execution of programs, policies, and directives established or developed by the Director.

(d) Meetings.—The Director of National Intelligence shall convene regular meetings of the Joint Intelligence Community Council.

(e) Advice and Opinions of Members Other than Chairman.—

(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Director of National Intelligence to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

(f) Recommendations to Congress.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.

## **Director of National Intelligence**

Sec. 102. [50 U.S.C. §403]

(a) Director of National Intelligence.—

(1) There is a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. Any individual nominated for appointment as Director of National Intelligence shall have extensive national security expertise.

(2) The Director of National Intelligence shall not be located within the Executive Office of the President.

(b) Principal Responsibility.—Subject to the authority, direction, and control of the President, the Director of National Intelligence shall—

(1) serve as head of the intelligence community;

(2) act as the principal adviser to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and

(3) consistent with section 1018 of the National Security Intelligence Reform Act of 2004, oversee and direct the implementation of the National Intelligence Program.

(c) Prohibition on Dual Service.—The individual serving in the position of Director of National Intelligence shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.

## **Responsibilities and Authorities of**

### **the Director of National Intelligence**

Sec. 102A. [50 U.S.C. §403-1]

(a) Provision of Intelligence.—

(1) The Director of National Intelligence shall be responsible for ensuring that national intelligence is provided—

(A) to the President;

(B) to the heads of departments and agencies of the executive branch;

(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

(D) to the Senate and House of Representatives and the committees thereof; and

(E) to such other persons as the Director of National Intelligence determines to be appropriate.

(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

(b) Access to Intelligence.—Unless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.

(c) Budget Authorities.—

(1) With respect to budget requests and appropriations for the National Intelligence Program, the Director of National Intelligence shall—

(A) based on intelligence priorities set by the President, provide to the heads of departments containing agencies or organizations within the intelligence community, and to the heads of such agencies and organizations, guidance for developing the National Intelligence Program budget pertaining to such agencies and organizations;

(B) based on budget proposals provided to the Director of National Intelligence by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council, develop and determine an annual consolidated National Intelligence Program budget; and

(C) present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

(2) In addition to the information provided under paragraph (1)(B), the heads of agencies and organizations within the intelligence community shall provide the Director of National Intelligence such other information as the Director shall request for the purpose of determining the annual consolidated National Intelligence Program budget under that paragraph.

(3)(A) The Director of National Intelligence shall participate in the development by the Secretary of Defense of the annual budget for the Military Intelligence Program or any successor program or programs. (B) The Director of National Intelligence shall provide guidance for the development of the annual budget for each element of the intelligence community that is not within the National Intelligence Program.

(4) The Director of National Intelligence shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

(5)(A) The Director of National Intelligence shall be responsible for managing appropriations for the National Intelligence Program by directing the allotment or allocation of such appropriations through the heads of the departments containing agencies or organizations within the intelligence community and the Director of the Central Intelligence Agency, with prior notice (including the provision of appropriate supporting information) to the head of the department containing an agency or organization receiving any such allocation or allotment or the Director of the Central Intelligence Agency.

(B) Notwithstanding any other provision of law, pursuant to relevant appropriations Acts for the National Intelligence Program, the Director of the Office of Management and Budget shall exercise the authority of the Director of the Office of Management and Budget to apportion funds, at the exclusive direction of the Director of National Intelligence, for allocation to the elements of the intelligence community through the relevant host executive departments and the Central Intelligence Agency. Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.

(C) The Director of National Intelligence shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations.

(6) Apportionment and allotment of funds under this subsection shall be subject to chapter 13 and section 1517 of title 31, United States Code, and the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. §621 et seq.).

(7)(A) The Director of National Intelligence shall provide a semi-annual report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

(B) The Director of National Intelligence shall report to the President and the Congress not later than 15 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

(d) Role of Director of National Intelligence in Transfer and Reprogramming of Funds.—

(1)(A) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the Director of National Intelligence, except in accordance with procedures prescribed by the Director of National Intelligence.

(B) The Secretary of Defense shall consult with the Director of National Intelligence before transferring or reprogramming funds made available under the Military Intelligence Program or any successor program or programs. .

(2) Subject to the succeeding provisions of this subsection, the Director of National Intelligence may transfer or reprogram funds appropriated for a program within the National Intelligence Program—

(A) to another such program;(B) to other departments or agencies of the United States Government for the development and fielding of systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; or(C) to a program funded by appropriations not within the National Intelligence Program to address critical gaps in intelligence information sharing or access capabilities. (3) The Director of National Intelligence may only transfer or reprogram funds referred to in paragraph (1)(A)—

(A) with the approval of the Director of the Office of Management and Budget; and

(B) after consultation with the heads of departments containing agencies or organizations within the intelligence community to the extent such agencies or organizations are affected, and, in the case of the Central Intelligence Agency, after consultation with the Director of the Central Intelligence Agency.

(4) The amounts available for transfer or reprogramming in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers and reprogrammings, are subject to the provisions of annual appropriations Acts and this subsection.

(5)(A) A transfer or reprogramming of funds may be made under this subsection only if—

(i) the funds are being transferred to an activity that is a higher priority intelligence activity;

(ii) the transfer or reprogramming supports an emergent need, improves program effectiveness, or increases efficiency;

(iii) the transfer or reprogramming does not involve a transfer or reprogramming of funds to a Reserve for Contingencies of the Director of National Intelligence or the Reserve for Contingencies of the Central Intelligence Agency;

(iv) the transfer or reprogramming results in a cumulative transfer or reprogramming of funds out of any department or agency, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than \$150,000,000, and

(II) that is less than 5 percent of amounts available to a department or agency under the National Intelligence Program; and

(v) the transfer or reprogramming does not terminate an acquisition program.

(B) A transfer or reprogramming may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency). The authority to provide such concurrence may only be delegated by the head of the department involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency) to the deputy of such officer. (6) Funds transferred or reprogrammed under this subsection shall remain available for the same period as the appropriations account to which transferred or reprogrammed.

(7) Any transfer or reprogramming of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer or reprogramming for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer or reprogramming and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer or reprogramming of funds made pursuant to this subsection in any case in which the transfer or reprogramming would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(e) Transfer of Personnel.—

(1)(A) In addition to any other authorities available under law for such purposes, in the first twelve months after establishment of a new national intelligence center, the Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in consultation with the congressional committees of jurisdiction referred to in subparagraph (B), may transfer not more than 100 personnel authorized for elements of the intelligence community to such center.

(B) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

(i) the congressional intelligence committees;

(ii) the Committees on Appropriations of the Senate and the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(C) The Director shall include in any notice under subparagraph (B) an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

(2)(A) The Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in accordance with procedures to be developed by the Director of National Intelligence and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such

element for a period of not more than 2 years.

(B) A transfer of personnel may be made under this paragraph only if—

- (i) the personnel are being transferred to an activity that is a higher priority intelligence activity; and
- (ii) the transfer supports an emergent need, improves program effectiveness, or increases efficiency.

(C) The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to—

(i) the congressional intelligence committees;

(ii) in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and

(iii) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(D) The Director shall include in any notice under subparagraph (C) an explanation of the nature of the transfer and how it satisfies the requirements of this paragraph.

(3)(A) In addition to the number of full-time equivalent positions

authorized for the Office of the Director of National Intelligence for a

fiscal year, there is authorized for such Office for each fiscal year an

additional 100 full-time equivalent positions that may be used only for

the purposes described in subparagraph (B).

(B) Except as provided in subparagraph (C), the Director of

National Intelligence may use a full-time equivalent position authorized under subparagraph (A) only for the purpose of providing a temporary transfer of personnel made in accordance with paragraph (2) to an element of the intelligence community to enable such element to increase the total number of personnel authorized for such element, on a temporary basis—

(i) during a period in which a permanent employee of such element is absent to participate in critical language training; or

(ii) to accept a permanent employee of another element of the intelligence community to provide language-capable services.

(C) Paragraph (2)(B) shall not apply with respect to a transfer of

personnel made under subparagraph (B).

(D) For each of the fiscal years 2010, 2011, and 2012, the Director of National Intelligence shall submit to the congressional intelligence committees an annual report on the use of authorities under this paragraph. Each such report

shall include a description of—

(i) the number of transfers of personnel made by the

Director pursuant to subparagraph (B), disaggregated by each element of the intelligence community;

(ii) the critical language needs that were fulfilled or

partially fulfilled through the use of such transfers; and

(iii) the cost to carry out subparagraph (B).

(4) It is the sense of Congress that—

(A) the nature of the national security threats facing the United States will continue to challenge the intelligence community to respond rapidly and flexibly to bring analytic resources to bear against emerging and unforeseen requirements;

(B) both the Office of the Director of National Intelligence and any analytic centers determined to be necessary should be fully and properly supported with appropriate levels of personnel resources and that the President's yearly budget requests adequately support those needs; and

(C) the President should utilize all legal and administrative discretion to ensure that the Director of National Intelligence and all other elements of the intelligence community have the necessary resources and procedures to respond promptly and effectively to emerging and unforeseen national security challenges.

(f) Tasking and Other Authorities.—

(1)(A) The Director of National Intelligence shall—

(i) establish objectives, priorities, and guidance for the intelligence community to ensure timely and effective collection, processing, analysis, and dissemination (including access by users to collected data consistent with applicable law and, as appropriate, the guidelines referred to in subsection (b) and analytic products generated by or within the intelligence community) of national intelligence;

(ii) determine requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the intelligence community, including—

(I) approving requirements (including those requirements responding to needs provided by consumers) for collection and analysis; and

(II) resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community; and

(III) provide advisory tasking to intelligence elements of those agencies and departments not within the National Intelligence Program.

(B) The authority of the Director of National Intelligence under subparagraph (A) shall not apply—

(i) insofar as the President so directs;

(ii) with respect to clause (ii) of subparagraph (A), insofar as the Secretary of Defense exercises tasking authority under plans or arrangements agreed upon by the Secretary of Defense and the Director of National Intelligence; or

(iii) to the direct dissemination of information to State government and local government officials and private sector entities pursuant to sections 201 and 892 of the Homeland Security Act of 2002 (6 U.S.C. §121, 482).

(2) The Director of National Intelligence shall oversee the National Counterterrorism Center and may establish such other national intelligence centers as the Director determines necessary.

(3)(A) The Director of National Intelligence shall prescribe, in consultation with the heads of other agencies or elements of the intelligence community, and the heads of their respective departments, personnel policies and programs applicable to the intelligence community that—

(i) encourage and facilitate assignments and details of personnel to national intelligence centers, and between elements of the intelligence community;

(ii) set standards for education, training, and career development of personnel of the intelligence community;

(iii) encourage and facilitate the recruitment and retention by the intelligence community of highly qualified individuals for the effective conduct of intelligence activities;

(iv) ensure that the personnel of the intelligence community are sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds;

(v) make service in more than one element of the intelligence community a condition of promotion to such positions within the intelligence community as the Director shall specify; and

(vi) ensure the effective management of intelligence community personnel who are responsible for intelligence community-wide matters.

(B) Policies prescribed under subparagraph (A) shall not be inconsistent with the personnel policies otherwise applicable to members of the uniformed services.

(4) The Director of National Intelligence shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program.

(5) The Director of National Intelligence shall ensure the elimination of waste and unnecessary duplication within the intelligence community.

(6) The Director of National Intelligence shall establish requirements and priorities for foreign intelligence information to be collected under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. §1801 et seq.), and provide assistance to the Attorney General to ensure that information derived from electronic surveillance or physical searches under that Act is disseminated so it may be used efficiently and effectively for national intelligence purposes, except that the Director shall have no authority to direct or undertake electronic surveillance or physical search operations pursuant to that Act unless authorized by statute or Executive order.

(7)(A) The Director of National Intelligence shall, if the

Director determines it is necessary, or may, if requested by a

congressional intelligence committee, conduct an accountability review

of an element of the intelligence community or the personnel of such

element in relation to a failure or deficiency within the intelligence community.

(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting an accountability review under subparagraph (A).

(C)(i) The Director of National Intelligence shall provide the

findings of an accountability review conducted under subparagraph (A) and the Director's recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

(ii) If the head of such element does not

implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

(D) The requirements of this paragraph shall not be construed to

limit any authority of the Director of National Intelligence under

subsection (m) or with respect to supervision of the Central

Intelligence Agency.

(8) The Director of National Intelligence shall perform such other functions as the President may direct.

(9) Nothing in this title shall be construed as affecting the role of the Department of Justice or the Attorney General under the Foreign Intelligence Surveillance Act of 1978.

(g) Intelligence Information Sharing.—

(1) The Director of National Intelligence shall have principal authority to ensure maximum availability of and access to intelligence information within the intelligence community consistent with national security requirements. The Director of National Intelligence shall—

(A) establish uniform security standards and procedures;

(B) establish common information technology standards, protocols, and interfaces;

(C) ensure development of information technology systems that include multi-level security and intelligence integration capabilities;

(D) establish policies and procedures to resolve conflicts between the need to share intelligence information and the need to protect intelligence sources and methods;

(E) develop an enterprise architecture for the intelligence community and ensure that elements of the intelligence community comply with such architecture; and

(F) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program.

(2) The President shall ensure that the Director of National Intelligence has all necessary support and authorities to fully and effectively implement paragraph (1).

(3) Except as otherwise directed by the President or with the specific written agreement of the head of the department or agency in question, a Federal agency or official shall not be considered to have met any obligation to provide any information, report, assessment, or other material (including unevaluated intelligence information) to that department or agency solely by virtue of having provided that information, report, assessment, or other material to the Director of National Intelligence or the National Counterterrorism Center.

(4) Not later than February 1 of each year, the Director of National Intelligence shall submit to the President and to the Congress an annual report that identifies any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively implement paragraph (1).

(h) Analysis.—To ensure the most accurate analysis of intelligence is derived from all sources to support national security needs, the Director of National Intelligence shall—

(1) implement policies and procedures—

(A) to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community;

(B) to ensure that analysis is based upon all sources available; and

(C) to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

(2) ensure that resource allocation for intelligence analysis is appropriately proportional to resource allocation for intelligence collection systems and operations in order to maximize analysis of all collected data;

(3) ensure that differences in analytic judgment are fully considered and brought to the attention of policymakers; and

(4) ensure that sufficient relationships are established between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

(i) Protection of Intelligence Sources and Methods.—

(1) The Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure.

(2) Consistent with paragraph (1), in order to maximize the dissemination of intelligence, the Director of National Intelligence shall establish and implement guidelines for the intelligence community for the following purposes:

(A) Classification of information under applicable law, Executive orders, or other Presidential directives.

(B) Access to and dissemination of intelligence, both in final form and in the form when initially gathered.

(C) Preparation of intelligence products in such a way that source information is removed to allow for dissemination at the lowest level of classification possible or in unclassified form to the extent practicable.

(3) The Director may only delegate a duty or authority given the Director under this subsection to the Principal Deputy Director of National Intelligence.

(j) Uniform Procedures for Sensitive Compartmented Information.—The Director of National Intelligence, subject to the direction of the President, shall—

- (1) establish uniform standards and procedures for the grant of access to sensitive compartmented information to any officer or employee of any agency or department of the United States and to employees of contractors of those agencies or departments;
- (2) ensure the consistent implementation of those standards and procedures throughout such agencies and departments;
- (3) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by those agencies; and
- (4) ensure that the process for investigation and adjudication of an application for access to sensitive compartmented information is performed in the most expeditious manner possible consistent with applicable standards for national security.

(k) Coordination with Foreign Governments.—Under the direction of the President and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. §3927), the Director of National Intelligence shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(l) Enhanced Personnel Management.—

(1)(A) The Director of National Intelligence shall, under regulations prescribed by the Director, provide incentives for personnel of elements of the intelligence community to serve—

- (i) on the staff of the Director of National Intelligence;
- (ii) on the staff of the national intelligence centers;
- (iii) on the staff of the National Counterterrorism Center; and
- (iv) in other positions in support of the intelligence community management functions of the Director.

(B) Incentives under subparagraph (A) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

(2)(A) Notwithstanding any other provision of law, the personnel of an element of the intelligence community who are assigned or detailed under paragraph (1)(A) to service under the Director of National Intelligence shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

(B) The Director may prescribe regulations to carry out this paragraph.

(3)(A) The Director of National Intelligence shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.

(B) The mechanisms prescribed under subparagraph (A) may include the following:

- (i) The establishment of special occupational categories involving service, over the course of a career, in more than one

element of the intelligence community.

(ii) The provision of rewards for service in positions undertaking analysis and planning of operations involving two or more elements of the intelligence community.

(iii) The establishment of requirements for education, training, service, and evaluation for service involving more than one element of the intelligence community.

(C) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate for civilian personnel within the intelligence community the joint officer management policies established by chapter 38 of title 10, United States Code, and the other amendments made by title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(4)(A) Except as provided in subparagraph (B) and subparagraph (D), this subsection shall not apply with respect to personnel of the elements of the intelligence community who are members of the uniformed services.

(B) Mechanisms that establish requirements for education and training pursuant to paragraph (3)(B)(iii) may apply with respect to members of the uniformed services who are assigned to an element of the intelligence community funded through the National Intelligence Program, but such mechanisms shall not be inconsistent with personnel policies and education and training requirements otherwise applicable to members of the uniformed services.

(C) The personnel policies and programs developed and implemented under this subsection with respect to law enforcement officers (as that term is defined in section 5541(3) of title 5, United States Code) shall not affect the ability of law enforcement entities to conduct operations or, through the applicable chain of command, to control the activities of such law enforcement officers.

(D) Assignment to the Office of the Director of National Intelligence of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer management policies prescribed by chapter 38 of title 10, United States Code, and other provisions of that title.

(m) Additional Authority with Respect to Personnel.—

(1) In addition to the authorities under subsection (f)(3), the Director of National Intelligence may exercise with respect to the personnel of the Office of the Director of National Intelligence any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. §403a et seq.), and other applicable provisions of law, as of the date of the enactment of this subsection to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

(2) Employees and applicants for employment of the Office of the Director of National Intelligence shall have the same rights and protections under the Office of the Director of National Intelligence as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this subsection.

(n) Acquisition and Other Authorities.—

(1) In carrying out the responsibilities and authorities under this section, the Director of National Intelligence may exercise the acquisition and appropriations authorities referred to in the Central Intelligence Agency Act of 1949 (50 U.S.C. §403a et seq.) other than the authorities referred to in section 8(b) of that Act (50 U.S.C. §403j(b)).

(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be deemed to be a reference to the Director of National Intelligence or the Principal Deputy Director of National

Intelligence.

(3)(A) Any determination or decision to be made under an authority referred to in paragraph (1) by the head of an agency may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final.

(B) Except as provided in subparagraph (C), the Director of National Intelligence or the Principal Deputy Director of National Intelligence may, in such official's discretion, delegate to any officer or other official of the Office of the Director of National Intelligence any authority to make a determination or decision as the head of the agency under an authority referred to in paragraph (1).

(C) The limitations and conditions set forth in section 3(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403c(d)) shall apply to the exercise by the Director of National Intelligence of an authority referred to in paragraph (1).

(D) Each determination or decision required by an authority referred to in the second sentence of section 3(d) of the Central Intelligence Agency Act of 1949 shall be based upon written findings made by the official making such determination or decision, which findings shall be final and shall be available within the Office of the Director of National Intelligence for a period of at least six years following the date of such determination or decision.

(4)(A) In addition to the authority referred to in paragraph (1),

the Director of National Intelligence may authorize the head of an

element of the intelligence community to exercise an acquisition

authority referred to in section 3 or 8(a) of the Central Intelligence

Agency Act of 1949 (50 U.S.C. 403c and 403j(a)) for an acquisition by

such element that is more than 50 percent funded under the National

Intelligence Program.

(B) The head of an element of the intelligence community may not exercise an authority referred to in subparagraph (A) until—

(i) the head of such element (without delegation) submits

to the Director of National Intelligence a written request that includes—

(I) a description of such authority requested to

be exercised;

(II) an explanation of the need for such

authority, including an explanation of the reasons that other authorities are insufficient; and

(III) a certification that the mission of such

element would be—

- (aa) impaired if such authority is not exercised; or
  - (bb) significantly and measurably enhanced if such authority is exercised; and
- (ii) the Director of National Intelligence issues a written authorization that includes—
- (I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and
  - (II) a justification to support the exercise of such authority.

(C) A request and authorization to exercise an authority referred

to in subparagraph (A) may be made with respect to an individual acquisition or with respect to a specific class of acquisitions described in the request and authorization referred to in subparagraph (B).

(D)(i) A request from a head of an element of the intelligence

community located within one of the departments described in clause (ii) to exercise an authority referred to in subparagraph (A) shall be submitted to the Director of National Intelligence in accordance with any procedures established by the head of such department.

- (ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of the Treasury.

(E)(i) The head of an element of the intelligence community may

not be authorized to utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence (without delegation) may authorize the use of such an authority for not more than 6 years.

- (ii) Each authorization to utilize an authority referred to in

subparagraph (A) may be extended in accordance with the requirements of subparagraph (B) for successive periods of not more than 3 years, except that the Director of National Intelligence (without delegation) may

authorize an extension period of not more than 6 years.

(F) Subject to clauses (i) and (ii) of subparagraph (E), the

Director of National Intelligence may only delegate the authority of the Director under subparagraphs (A) through (E) to the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence.

(G) The Director of National Intelligence shall submit—

(i) to the congressional intelligence committees a

notification of an authorization to exercise an authority

referred to in subparagraph (A) or an extension of such

authorization that includes the written authorization referred to in subparagraph (B)(ii); and

(ii) to the Director of the Office of Management and

Budget a notification of an authorization to exercise an

authority referred to in subparagraph (A) for an acquisition or class of acquisitions that will exceed \$50,000,000 annually.

(H) Requests and authorizations to exercise

an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 6 years following the date of such request or authorization.

(I) Nothing in this paragraph may be construed to alter or

otherwise limit the authority of the Central Intelligence Agency to independently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)).

(o) Consideration of Views of Elements of Intelligence Community.—In carrying out the duties and responsibilities under this section, the Director of National Intelligence shall take into account the views of a head of a department containing an element of the intelligence community and of the Director of the Central Intelligence Agency.

(p) Responsibility of Director of National Intelligence Regarding National Intelligence Program Budget Concerning the Department of Defense.—Subject to the direction of the President, the Director of National Intelligence shall, after consultation with the Secretary of Defense, ensure that the National Intelligence Program budgets for the elements of the intelligence community that are within the Department of Defense are adequate to satisfy the national intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands, and wherever such elements are performing Government-wide functions, the needs of other Federal departments and agencies.

(q) Acquisitions of Major Systems.—

(1) For each intelligence program within the National Intelligence Program for the acquisition of a major system, the Director of National Intelligence shall—

(A) require the development and implementation of a program management plan that includes cost, schedule, and performance goals and program milestone criteria, except that with respect to Department of Defense programs the

Director shall consult with the Secretary of Defense;

(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

(C) periodically—

(i) review and assess the progress made toward the achievement of the goals and milestones established in such plan; and

(ii) submit to Congress a report on the results of such review and assessment.

(2) If the Director of National Intelligence and the Secretary of Defense are unable to reach an agreement on a milestone decision under paragraph (1)(B), the President shall resolve the conflict.

(3) Nothing in this subsection may be construed to limit the authority of the Director of National Intelligence to delegate to any other official any authority to perform the responsibilities of the Director under this subsection.

(4) In this subsection:

(A) The term “intelligence program”, with respect to the acquisition of a major system, means a program that—

(i) is carried out to acquire such major system for an element of the intelligence community; and

(ii) is funded in whole out of amounts available for the National Intelligence Program.

(B) The term “major system” has the meaning given such term in section 4(9) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. §403(9)).

(r) Performance of Common Services.—The Director of National Intelligence shall, in consultation with the heads of departments and agencies of the United States Government containing elements within the intelligence community and with the Director of the Central Intelligence Agency, coordinate the performance by the elements of the intelligence community within the National Intelligence Program of such services as are of common concern to the intelligence community, which services the Director of National Intelligence determines can be more efficiently accomplished in a consolidated manner.

(s) Pay Authority for Critical Positions.—(1) Notwithstanding any pay limitation established under any other provision of law applicable to employees in elements of the intelligence community, the Director of National Intelligence may, in coordination with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, grant authority to the head of a department or agency to fix the rate of basic pay for one or more positions within the intelligence community at a rate in excess of any applicable limitation, subject to the provisions of this subsection. The exercise of authority

so granted is at the discretion of the head of the department or agency employing the individual in a position covered by such authority, subject to the provisions of this subsection and any conditions established by the Director of National Intelligence when granting such authority.

(2) Authority under this subsection may be granted or exercised only –

(A) with respect to a position that requires an extremely high level of expertise and is critical to successful accomplishment of an important mission; and

(B) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

(3) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

(4) The head of a department or agency may not fix a rate of basic pay under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

(5) Any grant of authority under this subsection for a position shall terminate at the discretion of the Director of National Intelligence.

(6)(A) The Director of National Intelligence shall notify the congressional intelligence committees not later than 30 days after the date on which the Director grants authority to the head of a department or agency under this subsection.

(B) The head of a department or agency to which the Director of

National Intelligence grants authority under this subsection shall

notify the congressional intelligence committees and the Director of the exercise of such authority not later than 30 days after the date on which such head exercises such authority.

(t) Award of Rank to Members of the Senior National Intelligence

Service. – (1) The President, based on the recommendation of the Director

of National Intelligence, may award a rank to a member of the Senior

National Intelligence Service or other intelligence community senior

civilian officer not already covered by such a rank award program in the

same manner in which a career appointee of an agency may be awarded a

rank under section 4507 of title 5, United States Code.

(2) The President may establish procedures to award a rank under

paragraph (1) to a member of the Senior National Intelligence Service or

a senior civilian officer of the intelligence community whose identity

as such a member or officer is classified information (as defined in

section 606(1)).

(u) Conflict of Interest Regulations.—(1) The Director of National Intelligence, in consultation with the Director of the Office of Government Ethics, shall issue regulations prohibiting an officer or employee of an element of the intelligence community from engaging in outside employment if such employment creates a conflict of interest or appearance thereof.

(2) The Director of National Intelligence shall annually submit to the congressional intelligence committees a report describing all outside employment for officers and employees of elements of the intelligence community that was authorized by the head of an element of the intelligence community during the preceding calendar year. Such report shall be submitted each year on the date provided in section 507.

(v) AUTHORITY TO ESTABLISH POSITIONS IN EXCEPTED

SERVICE.—(1) The Director of National Intelligence, with the concurrence

of the head of the covered department concerned and in

consultation with the Director of the Office of Personnel Management,

may—

(A) convert competitive service positions, and the incumbents

of such positions, within an element of the intelligence

community in such department, to excepted service positions

as the Director of National Intelligence determines necessary

to carry out the intelligence functions of such element; and

(B) establish new positions in the excepted service within

an element of the intelligence community in such department,

if the Director of National Intelligence determines such positions

are necessary to carry out the intelligence functions of

such element.

(2) An incumbent occupying a position on the date of the

enactment of the Intelligence Authorization Act for Fiscal Year

2012 selected to be converted to the excepted service under this

section shall have the right to refuse such conversion. Once such

individual no longer occupies the position, the position may be

converted to the excepted service.

(3) In this subsection, the term “covered department” means

the Department of Energy, the Department of Homeland Security,

the Department of State, or the Department of the Treasury.

(w) NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS INTELLIGENCE COMMUNITY ADDENDUM.—The Director of National Intelligence, in consultation with the heads of the appropriate elements of the intelligence community and the Secretary of State, shall provide to the President, the congressional intelligence committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate an addendum to each Nuclear Proliferation Assessment Statement accompanying a civilian nuclear cooperation agreement, containing a comprehensive analysis of the country's export control system with respect

to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries.

## **Office of the Director of National Intelligence**

Sec. 103. [50 U.S.C. §403-3]

- (a) Office of Director of National Intelligence.—There is an Office of the Director of National Intelligence.
- (b) Function.—The function of the Office of the Director of National Intelligence is to assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director under this Act and other applicable provisions of law, and to carry out such other duties as may be prescribed by the President or by law.
- (c) Composition.—The Office of the Director of National Intelligence is composed of the following:
  - (1) The Director of National Intelligence.
  - (2) The Principal Deputy Director of National Intelligence.
  - (3) Any Deputy Director of National Intelligence appointed under section 103A.
  - (4) The National Intelligence Council.
  - (5) The General Counsel.
  - (6) The Civil Liberties Protection Officer.
  - (7) The Director of Science and Technology.
  - (8) The National Counterintelligence Executive (including the Office of the National Counterintelligence Executive).
  - (9) The Chief Information Officer of the Intelligence Community.
  - (10) The Inspector General of the Intelligence Community.
  - (11) The Director of the National Counterterrorism Center.
  - (12) The Director of the National Counter Proliferation Center.

(13) The Chief Financial Officer of the Intelligence Community.

(14) Such other offices and officials as may be established by law or the Director may establish or designate in the Office, including national intelligence centers.

(d) Staff.—

(1) To assist the Director of National Intelligence in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the Director of National Intelligence a professional staff having an expertise in matters relating to such duties and responsibilities, and may establish permanent positions and appropriate rates of pay with respect to that staff.

(2) The staff of the Office of the Director of National Intelligence under paragraph (1) shall include the staff of the Office of the Deputy Director of Central Intelligence for Community Management that is transferred to the Office of the Director of National Intelligence under section 1091 of the National Security Intelligence Reform Act of 2004.

(e) TEMPORARY FILLING OF VACANCIES.—With respect to filling

temporarily a vacancy in an office within the Office of the Director

of National Intelligence (other than that of the Director of National

Intelligence), section 3345(a)(3) of title 5, United States Code, may

be applied—

(1) in the matter preceding subparagraph (A), by substituting

'an element of the intelligence community, as that

term is defined in section 3(4) of the National Security Act

of 1947 (50 U.S.C. 401a(4)),' for 'such Executive agency'; and

(2) in subparagraph (A), by substituting 'the intelligence

community' for 'such agency'.

(f) Location of the Office of the Director of National

Intelligence.—The headquarters of the Office of the Director of

National Intelligence may be located in the Washington metropolitan

region, as that term is defined in section 8301 of title 40, United

States Code.

Sec. 103A. [50 U.S.C. §403-3a]

(a) Principal Deputy Director of National Intelligence.—

(1) There is a Principal Deputy Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in the position of Principal Deputy Director of National Intelligence, the Director of National Intelligence shall recommend to the President an individual for appointment as Principal Deputy Director of National Intelligence.

(3) Any individual nominated for appointment as Principal Deputy Director of National Intelligence shall have extensive national security experience and management expertise.

(4) The individual serving as Principal Deputy Director of National Intelligence shall not, while so serving, serve in any capacity in any other element of the intelligence community.

(5) The Principal Deputy Director of National Intelligence shall assist the Director of National Intelligence in carrying out the duties and responsibilities of the Director.

(6) The Principal Deputy Director of National Intelligence shall act for, and exercise the powers of, the Director of National Intelligence during the absence or disability of the Director of National Intelligence or during a vacancy in the position of Director of National Intelligence.

(b) Deputy Directors of National Intelligence.—

(1) There may be not more than four Deputy Directors of National Intelligence who shall be appointed by the Director of National Intelligence.

(2) Each Deputy Director of National Intelligence appointed under this subsection shall have such duties, responsibilities, and authorities as the Director of National Intelligence may assign or are specified by law.

(c) Military Status of Director of National Intelligence and Principal Deputy Director of National Intelligence.—

(1) Not more than one of the individuals serving in the positions specified in paragraph (2) may be a commissioned officer of the Armed Forces in active status.

(2) The positions referred to in this paragraph are the following:

(A) The Director of National Intelligence.

(B) The Principal Deputy Director of National Intelligence.

(3) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (2)—

(A) be a commissioned officer of the Armed Forces, in active status; or

(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

(4) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (2)—

(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

(5) Except as provided in subparagraph (A) or (B) of paragraph (4), the appointment of an officer of the Armed Forces to a position specified in paragraph (2) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

(6) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (2), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of National Intelligence.

## National Intelligence Council

Sec. 103B. [50 U.S.C. §403-3b]

(a) National Intelligence Council.—There is a National Intelligence Council.

(b) Composition.—

(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of National Intelligence.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) Duties and Responsibilities.—

(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the Director of National Intelligence in carrying out the responsibilities of the Director under section

- (2) The Director of National Intelligence shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence.
- (d) Services as Senior Intelligence Advisers.—Within their respective areas of expertise and under the direction of the Director of National Intelligence, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.
- (e) Authority to Contract.—Subject to the direction and control of the Director of National Intelligence, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.
- (f) Staff.—The Director of National Intelligence shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.
- (g) Availability of Council and Staff.—
- (1) The Director of National Intelligence shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.
- (2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.
- (h) Support.—The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the Director of National Intelligence.
- (i) National Intelligence Council Product.—For purposes of this section, the term “National Intelligence Council product” includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

## General Counsel

### Sec. 103C. [50 U.S.C. §403-3c]

- (a) General Counsel.—There is a General Counsel of the Office of the Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.
- (b) Prohibition on Dual Service as General Counsel of Another Agency.—The individual serving in the position of General Counsel may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.
- (c) Scope of Position.—The General Counsel is the chief legal officer of the Office of the Director of National Intelligence.
- (d) Functions.—The General Counsel shall perform such functions as the Director of National Intelligence may prescribe.

## Civil Liberties Protection Officer

Sec. 103D. [50 U.S.C. §403-3d]

(a) Civil Liberties Protection Officer.—

(1) Within the Office of the Director of National Intelligence, there is a Civil Liberties Protection Officer who shall be appointed by the Director of National Intelligence.

(2) The Civil Liberties Protection Officer shall report directly to the Director of National Intelligence.

(b) Duties.—The Civil Liberties Protection Officer shall—

(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the Director of National Intelligence and the elements of the intelligence community within the National Intelligence Program;

(2) oversee compliance by the Office and the Director of National Intelligence with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy;

(3) review and assess complaints and other information indicating possible abuses of civil liberties and privacy in the administration of the programs and operations of the Office and the Director of National Intelligence and, as appropriate, investigate any such complaint or information;

(4) ensure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(5) ensure that personal information contained in a system of records subject to section 552a of title 5, United States Code (popularly referred to as the Privacy Act'), is handled in full compliance with fair information practices as set out in that section;

(6) conduct privacy impact assessments when appropriate or as required by law; and

(7) perform such other duties as may be prescribed by the Director of National Intelligence or specified by law.

(c) Use of Agency Inspectors General.—When appropriate, the Civil Liberties Protection Officer may refer complaints to the Office of Inspector General having responsibility for the affected element of the department or agency of the intelligence community to conduct an investigation under paragraph (3) of subsection (b).

## Director of Science and Technology

Sec. 103E. [50 U.S.C. §403-3e]

(a) Director of Science and Technology.—There is a Director of Science and Technology within the Office of the Director of

National Intelligence who shall be appointed by the Director of National Intelligence.

(b) Requirement Relating to Appointment.—An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology.

(c) Duties.—The Director of Science and Technology shall—

- (1) act as the chief representative of the Director of National Intelligence for science and technology;
- (2) chair the Director of National Intelligence Science and Technology Committee under subsection (d);
- (3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;
- (4) assist the Director on the science and technology elements of the budget of the Office of the Director of National Intelligence; and
- (5) perform other such duties as may be prescribed by the Director of National Intelligence or specified by law.

(d) Director of National Intelligence Science and Technology Committee.—

(1) There is within the Office of the Director of Science and Technology a Director of National Intelligence Science and Technology Committee.

(2) The Committee shall be composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Director of Science and Technology shall prescribe.

## **National Counterintelligence Executive**

Sec. 103F. [50 U.S.C. §403-3f]

(a) National Counterintelligence Executive.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107-306; 50 U.S.C. §402b et seq.) is a component of the Office of the Director of National Intelligence.

(b) Duties.—The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002 and such other duties as may be prescribed by the Director of National Intelligence or specified by law.

## **Chief Information Officer**

- (a) Chief Information Officer.—To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there shall be within the Office of the Director of National Intelligence a Chief Information Officer of the Intelligence Community who shall be appointed by the President.
- (b) Duties and Responsibilities.—Subject to the direction of the Director of National Intelligence, the Chief Information Officer of the Intelligence Community shall—
- (1) manage activities relating to the information technology infrastructure and enterprise architecture requirements of the intelligence community;
  - (2) have procurement approval authority over all information technology items related to the enterprise architectures of all intelligence community components;
  - (3) direct and manage all information technology-related procurement for the intelligence community; and
  - (4) ensure that all expenditures for information technology and research and development activities are consistent with the intelligence community enterprise architecture and the strategy of the Director for such architecture.

(c) Prohibition on Simultaneous Service as Other Chief Information Officer.—An individual serving in the position of Chief Information Officer of the Intelligence Community may not, while so serving, serve as the chief information officer of any other department or agency, or component thereof, of the United States Government.

### **inspector general of the intelligence community**

Sec. 103H. [ 50 USC 403-3h.] (a) Office of Inspector

General of the Intelligence Community.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

(b) Purpose.—The purpose of the Office of the Inspector General of the Intelligence Community is—

- (1) to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independent investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence;
- (2) to provide leadership and coordination and recommend policies for activities designed—

- (A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and
- (B) to prevent and detect fraud and abuse in such programs and activities;

(3) to provide a means for keeping the Director of National

Intelligence fully and currently informed about—

(A) problems and deficiencies relating to the administration of programs and activities within the responsibility and authority of the Director of National Intelligence; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, to ensure that the

congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to programs

and activities within the responsibility and authority of the

Director of National Intelligence; and

(B) the necessity for, and the progress of, corrective actions.

(c) Inspector General of the Intelligence Community.—

(1) There is an Inspector General of the

Intelligence Community, who shall be the head of the Office of the

Inspector General of the Intelligence Community, who shall be appointed

by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector

General shall be made—

(A) without regard to political affiliation;

(B) on the basis of integrity, compliance with security standards of the intelligence community, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.

(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

(4) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal. Nothing in this paragraph shall be construed to prohibit a personnel action otherwise authorized by law, other than transfer or removal.

(d) Assistant Inspectors General.—

Subject to the policies of the Director of National Intelligence, the Inspector General of the Intelligence Community shall—

- (1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;
- (2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and
- (3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

(e) Duties and Responsibilities.—It shall be the duty and responsibility of the Inspector General of the Intelligence Community—

- (1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;
- (2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action;
- (3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and
- (4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing.

(f) Limitations on Activities.—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

(2) Not later than seven days after the date on which the Director exercises the authority under paragraph (1), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority.

(3) The Director shall advise the Inspector General at the time a statement under paragraph (2) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement.

(4) The Inspector General may submit to the congressional

intelligence committees any comments on the statement of which the

Inspector General has notice under paragraph (3) that the Inspector

General considers appropriate.

(g) Authorities.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

(2)(A) The Inspector General shall, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

(B) The Inspector General shall have access to any employee, or

any employee of a contractor, of any element of the intelligence

community needed for the performance of the duties of the Inspector General.

(C) The Inspector General shall have direct access to all records,

reports, audits, reviews, documents, papers, recommendations, or other materials that relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

(D) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (C).

(E) The Director, or on the recommendation of the Director,

another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of a contractor, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the intelligence community—

(A) the Inspector General shall not disclose the identity

of the employee without the consent of the employee, unless the

Inspector General determines that such disclosure is unavoidable

during the course of the investigation or the disclosure is made

to an official of the Department of Justice responsible for

determining whether a prosecution should be undertaken; and

(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) The Inspector General shall have the authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

(C) The Inspector General may not issue a subpoena for, or on behalf of, any component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

(6) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(h) Coordination Among Inspectors General.—(1)(A) In the event of

a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and an inspector general with oversight responsibility for an element of the intelligence community, the Inspector General of the Intelligence Community and such other inspector general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the inspectors general.

(B) In attempting to resolve a question under subparagraph (A),

the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within a department or agency of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall

submit the question to the Director of National Intelligence and the head of the affected department or agency for resolution.

(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element of the intelligence community.

(B) The Inspector General of the Intelligence Community shall

serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about

jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than one of its members.

(3) The inspector general conducting an investigation, inspection, audit, or review covered by paragraph (1) shall submit the results of such investigation, inspection, audit, or review to any other inspector general, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, audit, or review who did not conduct such investigation, inspection, audit, or review.

(i) Counsel to the Inspector General.—(1) The Inspector General of the Intelligence Community shall—

(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

(B) obtain the services of a counsel appointed by and directly reporting to another inspector general or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

(2) The counsel appointed or obtained under paragraph (1) shall perform such functions as the Inspector General may prescribe.

(j) Staff and Other Support.—(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

(2)(A) Subject to applicable law and the policies of the Director

of National Intelligence, the Inspector General shall select, appoint,

and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The

Inspector General shall ensure that any officer or employee so selected,

appointed, or employed has security clearances appropriate for the

assigned duties of such officer or employee.

(B) In making selections under subparagraph (A), the Inspector

General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

(C) In meeting the requirements of this paragraph, the Inspector

General shall create within the Office of the Inspector General of the Intelligence Community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

(3) Consistent with budgetary and personnel resources allocated by

the Director of National Intelligence, the Inspector General has final

approval of—

(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

(B) all other personnel decisions concerning personnel permanently assigned to the Office of the Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

(4)(A) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

(B) Upon request of the Inspector General for information or

assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, such information or assistance.

(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

(k) Reports.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively.

The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

(B) Each report under this paragraph shall include, at a minimum, the following:

(i) A list of the title or subject of each investigation,

inspection, audit, or review conducted during the period covered by such report.

(ii) A description of significant problems, abuses, and

deficiencies relating to the administration of programs and activities of the intelligence community within the responsibility and authority of the Director of National

Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

(iii) A description of the recommendations for corrective

action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

(iv) A statement of whether or not corrective action has

been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

(v) A certification of whether or not the Inspector

General has had full and direct access to all information

relevant to the performance of the functions of the Inspector General.

(vi) A description of the exercise of the subpoena

authority under subsection (g)(5) by the Inspector General during the period covered by such report.

(vii) Such recommendations as the Inspector General

considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

(C) Not later than 30 days after the date of receipt of a report

under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with

any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

(3)(A) In the event that—

- (i) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;
- (ii) an investigation, inspection, audit, or review carried out by the Inspector General focuses on any current or former intelligence community official who—
  - (I) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;
  - (II) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of

National Intelligence; or

(III) holds or held a position as head of an

element of the intelligence community or a position

covered by subsection (b) or (c) of section 106;

(iii) a matter requires a report by the Inspector General

to the Department of Justice on possible criminal conduct by a current or former official described in clause (ii);

(iv) the Inspector General receives notice from the

Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in clause (ii); or

(v) the Inspector General, after exhausting all possible

alternatives, is unable to obtain significant documentary

information in the course of an investigation, inspection,

audit, or review, the Inspector General shall immediately notify, and submit a report to, the congressional intelligence committees on such matter.

(B) The Inspector General shall submit to the committees of the

Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

(4) The Director shall submit to the congressional intelligence

committees any report or findings and recommendations of an

investigation, inspection, audit, or review conducted by the office

which has been requested by the Chairman or Vice Chairman or ranking

minority member of either committee.

(5)(A) An employee of an element of the intelligence community, an

employee assigned or detailed to an element of the intelligence

community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

(B) Not later than the end of the 14-calendar-day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information

appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

(D)(i) If the Inspector General does not find credible under

subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting

either or both of the congressional intelligence committees directly.

(ii) An employee may contact the congressional intelligence committees directly as described in clause (i) only if the employee—

(I) before making such a contact, furnishes to the

Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's

intent to contact the congressional intelligence committees directly; and

(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

(iii) A member or employee of one of the congressional

intelligence committees who receives a complaint or information under this subparagraph does so in that member or employee's official capacity as a member or employee of such committee.

(E) The Inspector General shall notify an

employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

(G) In this paragraph, the term "urgent concern" means any of the following:

(i) A serious or flagrant problem, abuse, violation of law

or Executive order, or deficiency relating to the funding,

administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

(ii) A false statement to Congress, or a willful

withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (g)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

(H) Nothing in this section shall be construed to limit the protections afforded to an employee under section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) or section 8H of the Inspector General Act of 1978 (5 U.S.C. App.).

(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall expeditiously report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

(I) Construction of Duties Regarding Elements of Intelligence

Community.—Except as resolved pursuant to subsection (h), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other inspector general having duties and responsibilities relating to such element.

(m) Separate Budget Account.—The Director of National Intelligence shall, in accordance with procedures issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of the Inspector General of the Intelligence Community.

(n) Budget.—(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

(A) the aggregate amount requested for the operations of the Inspector General;

(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

(C) the amount requested to support the Council of the

Inspectors General on Integrity and Efficiency, including a

justification for such amount.

(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

(B) the amount requested for Inspector General training;

(C) the amount requested to support the Council of the

Inspectors General on Integrity and Efficiency; and

(D) the comments of the Inspector General, if any, with

respect to such proposed budget.

(3) The Director of National Intelligence shall submit to the

congressional intelligence committees, the Committee on Appropriations

of the Senate, and the Committee on Appropriations of the House of

Representatives for each fiscal year—

(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

(B) the amount requested by the Director for the Inspector

General pursuant to paragraph (2)(A);

(C) the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B);

(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (2)(C); and

(E) the comments of the Inspector General under paragraph

(2)(D), if any, on the amounts requested pursuant to paragraph

(2), including whether such amounts would substantially inhibit

the Inspector General from performing the duties of the Office

of the Inspector General.

(o) INFORMATION ON WEBSITE.—(1) The Director of National Intelligence shall establish and maintain on the homepage of the publicly accessible website of the Office of the Director of National Intelligence information relating to the Office of the Inspector General of the Intelligence Community including methods to contact the Inspector General.

(2) The information referred to in paragraph (1) shall be obvious and facilitate accessibility to the information related to the Office of the Inspector General of the Intelligence Community.

### **chief financial officer of the intelligence community**

Sec. 103I. [50 USC 403-3i.] (a) Chief Financial Officer of the Intelligence Community.—To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there is within the Office of the Director of National Intelligence a Chief Financial Officer of the Intelligence Community who shall be appointed by the Director.

(b) Duties and Responsibilities.—Subject to the direction of the Director of National Intelligence, the Chief Financial Officer of the Intelligence Community shall—

(1) serve as the principal advisor to the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources;

(2) participate in overseeing a comprehensive and integrated strategic process for resource management within the intelligence community;

(3) ensure that the strategic plan of the Director of National Intelligence—

(A) is based on budgetary constraints as specified in the Future Year Intelligence Plans and Long-term Budget Projections required under section 506G; and

(B) contains specific goals and objectives to support a performance-based budget;

(4) prior to the obligation or expenditure of funds for the acquisition of any major system pursuant to a Milestone A or Milestone B decision, receive verification from appropriate authorities that the national requirements for meeting the strategic plan of the Director have been established, and that such requirements are prioritized based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections for such major system required under section 506G;

(5) ensure that the collection architectures of the Director are based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections required under section 506G;

(6) coordinate or approve representations made to Congress by the intelligence community regarding National Intelligence Program budgetary resources;

(7) participate in key mission requirements, acquisitions, or architectural boards formed within or by the Office of the Director of National Intelligence; and

(8) perform such other duties as may be prescribed by the Director of National Intelligence.

(c) Other Law.—The Chief Financial Officer of the Intelligence Community shall serve as the Chief Financial Officer of the intelligence community and, to the extent applicable, shall have the duties, responsibilities, and authorities specified in chapter 9 of title 31, United States Code.

(d) Prohibition on Simultaneous Service as Other Chief Financial

Officer.—An individual serving in the position of Chief Financial Officer of the Intelligence Community may not, while so serving, serve as the chief financial officer of any other department or agency, or component thereof, of the United States Government.

(e) Definitions.—In this section:

(1) The term “major system” has the meaning given that term in section 506A(e).

(2) The term “Milestone A” has the meaning given that term in section 506G(f).

(3) The term “Milestone B” has the meaning given that term in section 506C(e).

## **Central Intelligence Agency**

Sec. 104. [50 U.S.C. §403-4]

(a) Central Intelligence Agency.—There is a Central Intelligence Agency.

(b) Function.—The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 104A(c).

## **Director of the Central Intelligence Agency**

Sec. 104A. [50 U.S.C. §403-4a]

(a) Director of Central Intelligence Agency.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Supervision.—The Director of the Central Intelligence Agency shall report to the Director of National Intelligence regarding the activities of the Central Intelligence Agency.

(c) Duties.—The Director of the Central Intelligence Agency shall—

(1) serve as the head of the Central Intelligence Agency; and

(2) carry out the responsibilities specified in subsection (d).

(d) Responsibilities.—The Director of the Central Intelligence Agency shall—

- (1) collect intelligence through human sources and by other appropriate means, except that the Director of the Central Intelligence Agency shall have no police, subpoena, or law enforcement powers or internal security functions;
- (2) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;
- (3) provide overall direction for and coordination of the collection of national intelligence outside the United States through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other departments, agencies, or elements of the United States Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that appropriate account is taken of the risks to the United States and those involved in such collection; and
- (4) perform such other functions and duties related to intelligence affecting the national security as the President or the Director of National Intelligence may direct.

(e) Termination of Employment of CIA Employees.—

- (1) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interests of the United States.
- (2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(f) Coordination with Foreign Governments.—Under the direction of the Director of National Intelligence and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. §3927), the Director of the Central Intelligence Agency shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments or international organizations on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

(g) Foreign Language Proficiency for Certain Senior Level Positions in Central Intelligence Agency.—

- (1) Except as provided pursuant to paragraph (2), an individual in the Directorate of Intelligence career service or the National Clandestine Service career service may not be appointed or promoted to a position in the Senior Intelligence Service in the Directorate of Intelligence or the National Clandestine Service of the Central Intelligence Agency unless the Director of the Central Intelligence Agency determines that the individual has been certified as having a professional speaking and reading proficiency in a foreign language, such proficiency being at least level 3 on the Interagency Language Roundtable Language Skills Level or commensurate proficiency level using such other indicator of proficiency as the Director of the Central Intelligence Agency considers appropriate.
- (2) The Director of the Central Intelligence Agency may, in the discretion of the Director, waive the application of paragraph (1) to any position, category of positions, or occupation otherwise covered by that paragraph if the Director determines that foreign language proficiency is not necessary for the successful performance of the duties and responsibilities of such position, category of positions, or occupation.

## **deputy director of the central intelligence agency**

Sec. 104B. [50 USC 403-4c.] (a) Deputy

Director of the Central Intelligence Agency.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President.

(b) Duties.—The Deputy Director of the Central Intelligence Agency shall—(1) assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central Intelligence Agency; and (2) during the absence or disability of the Director of the Central Intelligence Agency, or during a vacancy in the position of Director of the Central Intelligence Agency, act for and exercise the powers of the Director of the Central Intelligence Agency.

## **Responsibilities of the Secretary of Defense**

### **Pertaining to the National Intelligence Program**

Sec. 105. [50 U.S.C. §403–5]

(a) In General.—Consistent with the sections 102 and 102A, the Secretary of Defense, in consultation with the Director of National Intelligence, shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the Chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing government wide functions, the needs of other departments and agencies;

(2) ensure appropriate implementation of the policies and resource decisions of the Director by elements of the Department of Defense within the National Intelligence Program;

(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Intelligence Program;

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

(b) Responsibility for the Performance of Specific Functions.—Consistent with sections 102 and 102A of this Act, the

Secretary of Defense shall ensure—

- (1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;
- (2) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense—
  - (A) for carrying out tasking of imagery collection;
  - (B) for the coordination of imagery processing and exploitation activities;
  - (C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and
  - (D) notwithstanding any other provision of law, for—
    - (i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and
    - (ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information;
- (3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;
- (4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;
- (5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence and counterintelligence activities, including defense attaches; and
- (6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—
  - (A) the requirements of the Director of National Intelligence;
  - (B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;
  - (C) the requirements of the unified and specified combatant commands and of joint operations; and
  - (D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

(c) Expenditure of Funds by the Defense Intelligence Agency.—(1)

Subject to paragraphs (2) and (3), the Director of the Defense Intelligence Agency may expend amounts made available to the Director under the National Intelligence Program for human intelligence and counterintelligence activities for objects of

a confidential, extraordinary, or emergency nature, without regard to the provisions of law or regulation relating to the expenditure of Government funds.

(2) The Director of the Defense Intelligence Agency may not expend more than five percent of the amounts made available to the Director under the National Intelligence Program for human intelligence and

counterintelligence activities for a fiscal year for objects of a confidential, extraordinary, or emergency nature in accordance with paragraph (1) during such fiscal year unless—

(A) the Director notifies the congressional intelligence committees of the intent to expend the amounts; and

(B) 30 days have elapsed from the date on which the Director notifies the congressional intelligence committees in accordance with subparagraph (A).

(3) For each expenditure referred to in paragraph (1), the Director shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

(4) Not later than December 31 of each year, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees a report on any expenditures made during the preceding fiscal year in accordance with paragraph (1).

(d) Use of Elements of Department of Defense.—The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

## Assistance to United States Law Enforcement Agencies

Sec. 105A. [50 U.S.C. §403–5a]

(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.

## **Disclosure of Foreign Intelligence Acquired**

### **in Criminal Investigations; Notice of Criminal**

### **Investigations of Foreign Intelligence Sources**

Sec. 105B. [50 U.S.C. §403–5b]

(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 the date of enactment of this section, 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).

## **Appointment of Officials Responsible for Intelligence Related Activities**

Sec. 106. [50 U.S.C. §403–6]

(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 National 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 of the Department of Energy.
- (F) The Director of the Office of Counterintelligence of the Department of Energy.
- (G) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.
- (H) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation or any successor to that position.
- (I) 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) Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28, United States Code.

## Emergency Preparedness

### Sec. 107. [50 U.S.C. §404]

- (a) The Director of the Federal Emergency Management Agency, subject to the direction of the President, is authorized, subject to the civil-service laws and the Classification Act of 1949, to appoint and fix the compensation of such personnel as may be necessary to assist the Director in carrying out his functions.
- (b) It shall be the function of the Director of the Office of Defense Mobilization to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—
- (1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war.
- (2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;
- (3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

- (4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;
  - (5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;
  - (6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.
- (c) In performing his functions, the Director of the Office of Defense Mobilization shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

## **Annual National Security Strategy Report**

Sec. 108. [50 U.S.C. §404a]

- (a)(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a national security strategy report").
  - (2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31, United States Code.
  - (3) Not later than 150 days after the date on which a new President takes office, the President shall transmit to Congress a national security strategy report under this section. That report shall be in addition to the report for that year transmitted at the time specified in paragraph (2).
- (b) Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:
- (1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.
  - (2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.
  - (3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).
  - (4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.
  - (5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.
- (c) Each national security strategy report shall be transmitted in both a classified and an unclassified form. [1]

Sec. 109. [50 U.S.C. §404d]

(a) In General.—

- (1)(A) Not later each year than the date provided in section 507, the President shall submit to the congressional intelligence committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.
- (B) Not later than January 31 each year, and included with the budget of the President for the next fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate congressional committees the report described in subparagraph (A).
- (2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.
- (3) The report shall be submitted in unclassified form, but may include a classified annex.

(b) Matters Covered.—

(1) Each report under subsection (a) shall—

- (A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and
- (B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

(c) Definition.—In this section, the term “appropriate congressional committees” means the following:

- (1) The Committee on Appropriations and the Committee on Armed Services of the Senate.
- (2) The Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

National Mission of the

National Geospatial-Intelligence Agency

(a) In General.—In addition to the Department of Defense missions set forth in section 442 of title 10, United States Code, the National Geospatial-Intelligence Agency shall support the imagery requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense.

(b) Requirements and Priorities.—The Director of National Intelligence shall establish requirements and priorities governing the collection of national intelligence by the National Geospatial-Intelligence Agency under subsection (a).

(c) Correction of Deficiencies.—The Director of National Intelligence shall develop and implement such programs and policies as the Director and the Secretary of Defense jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Geospatial-Intelligence Agency to accomplish assigned national missions, including support to the all-source analysis and production process. The Director shall consult with the Secretary of Defense on the development and implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.

### **Restriction on Intelligence Sharing with the United Nations**

#### **Sec. 112. [50 U.S.C. §404g]**

(a) Provision of Intelligence Information to the United Nations.—

(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of National Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

(b) Delegation of Duties.—The President may not delegate or assign the duties of the President under this section.

(c) Relationship to Existing Law.—Nothing in this section shall be construed to—

(1) impair or otherwise affect the authority of the Director of National Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(7) of this Act; or

(2) supersede or otherwise affect the provisions of title V of this Act.

(d) Definition.—As used in this section, the term “appropriate committees of Congress” means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

**Detail of Intelligence Community Personnel;**

**Intelligence Community Assignment Program**

Sec. 113. [50 U.S.C. §404h]

(a) Detail.—

(1) Notwithstanding any other provision of law, the head of a department with an element in the intelligence community or the head of an intelligence community agency or element may detail any employee within that department, agency, or element to serve in any position in the Intelligence Community Assignment Program on a reimbursable or a nonreimbursable basis.

(2) Nonreimbursable details may be for such periods as are agreed to between the heads of the parent and host agencies, up to a maximum of three years, except that such details may be extended for a period not to exceed one year when the heads of the parent and host agencies determine that such extension is in the public interest.

(b) Benefits, Allowances, Travel, Incentives.—

(1) An employee detailed under subsection (a) may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which the employee is detailed.

(2) The head of an agency of an employee detailed under subsection (a) may pay a lodging allowance for the employee subject to the following conditions:

(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of National Intelligence and—

(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

(C) The lodging is within a reasonable proximity of the host agency duty station.

(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employee's parent duty station.

(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS-15 of the General Schedule.

## **non-reimbursable detail of other personnel**

Sec. 113A. [50 U.S.C. §404h-1]

An officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a non-reimbursable basis, as jointly agreed to by the heads of the receiving and detailing elements, for a period not to exceed two years. This section does not limit any other source of authority for reimbursable or non-reimbursable details.

## **Additional Annual Reports from**

**the Director of National Intelligence**

Sec. 114. [50 U.S.C. §404i]

(a) Annual Report on the Safety and Security of Russian Nuclear Facilities and Nuclear Military Forces.—

(1) The Director of National Intelligence shall submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 507, an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each such report shall include a discussion of the following:

(A) The ability of the Government of Russia to maintain its nuclear military forces.

(B) The security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

(b) Annual Report on Hiring and Retention of Minority Employees.—

(1) The Director of National Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

(i) Positions at levels 1 through 15 of the General Schedule.

(ii) Positions at levels above GS-15.

(C) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

(5) In this subsection, the term "covered persons" means—

(A) racial and ethnic minorities;

(B) women; and

(C) individuals with disabilities.

(c) Annual Report on Threat of Attack on the United States Using Weapons of Mass Destruction.—

(1) Not later each year than the date provided in section 507, the Director of National Intelligence shall submit to the congressional committees specified in paragraph (3) a report assessing the following:

(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.

(3) The congressional committees referred to in paragraph (1) are the following:

(A) The congressional intelligence committees.

(B) The Committees on Foreign Relations and Armed Services of the Senate.

(C) The Committees on International Relations and Armed Services of the House of Representatives.

(d) Congressional Leadership Defined.—In this section, the term "congressional leadership" means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

Travel on Any Common Carrier for

## Certain Intelligence Collection Personnel

Sec. 116. [50 U.S.C. §404k]

(a) In General.—Notwithstanding any other provision of law, the Director of National Intelligence may authorize travel on any common carrier when such travel, in the discretion of the Director—

(1) is consistent with intelligence community mission requirements, or

(2) is required for cover purposes, operational needs, or other exceptional circumstances necessary for the successful performance of an intelligence community mission.

(b) Authorized Delegation of Duty.—The Director of National Intelligence may only delegate the authority granted by this section to the Principal Deputy Director of National Intelligence, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency, who may delegate such authority to other appropriate officials of the Central Intelligence Agency.

## POW/MIA Analytic Capability

Sec. 117. [50 U.S.C. §404l]

(a) Requirement.—

(1) The Director of National Intelligence shall, in consultation with the Secretary of Defense, establish and maintain in the intelligence community an analytic capability with responsibility for intelligence in support of the activities of the United States relating to individuals who, after December 31, 1990, are unaccounted for United States personnel.

(2) The analytic capability maintained under paragraph (1) shall be known as the “POW/MIA analytic capability of the intelligence community”.

(b) Unaccounted for United States Personnel.—In this section, the term “unaccounted for United States personnel” means the following:

(1) Any missing person (as that term is defined in section 1513(1) of title 10, United States Code).

(2) Any United States national who was killed while engaged in activities on behalf of the United States and whose remains have not been repatriated to the United States.

## Annual Report on Financial Intelligence on Terrorist Assets

Sec. 118. [50 U.S.C. §404m]

(a) Annual Report.—On an annual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks.

Each such report shall include with respect to the preceding one-year period—

- (1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;
- (2) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and
- (3) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

(b) Immediate Notification for Emergency Designation.—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

(c) Submittal Date of Reports to Congressional Intelligence Committees.—In the case of the reports required to be submitted under subsection (a) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.

(d) Appropriate Congressional Committees Defined.—In this section, the term “appropriate congressional committees” means the following:

(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Financial Services of the House of Representatives.

(2) The Select Committee on Intelligence, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

## National Counterterrorism Center

### Sec. 119. [50 U.S.C. §404o]

(a) Establishment of Center.—There is within the Office of the Director of National Intelligence a National Counterterrorism Center.

(b) Director of National Counterterrorism Center.—

(1) There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director of the National Counterterrorism Center may not simultaneously serve in any other capacity in the executive branch.

(c) Reporting.—

(1) The Director of the National Counterterrorism Center shall report to the Director of National Intelligence with respect to matters described in paragraph (2) and the President with respect to matters described in paragraph (3).

(2) The matters described in this paragraph are as follows:

(A) The budget and programs of the National Counterterrorism Center.

(B) The activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (i).

(C) The conduct of intelligence operations implemented by other elements of the intelligence community; and

(3) The matters described in this paragraph are the planning and progress of joint counterterrorism operations (other than intelligence operations).

(d) Primary Missions.—The primary missions of the National Counterterrorism Center shall be as follows:

(1) To serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism.

(2) To conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies.

(3) To assign roles and responsibilities as part of its strategic operational planning duties to lead Departments or agencies, as appropriate, for counterterrorism activities that are consistent with applicable law and that support counterterrorism strategic operational plans, but shall not direct the execution of any resulting operations.

(4) To ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

(5) To ensure that such agencies have access to and receive intelligence needed to accomplish their assigned activities.

(6) To serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.

(e) Domestic Counterterrorism Intelligence.—

(1) The Center may, consistent with applicable law, the direction of the President, and the guidelines referred to in section 102A(b), receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.

(2) Any agency authorized to conduct counterterrorism activities may request information from the Center to assist it in its responsibilities, consistent with applicable law and the guidelines referred to in section 102A(b).

(f) Duties and Responsibilities of Director.—

(1) The Director of the National Counterterrorism Center shall—

(A) serve as the principal adviser to the Director of National Intelligence on intelligence operations relating to

counterterrorism;

(B) provide strategic operational plans for the civilian and military counterterrorism efforts of the United States Government and for the effective integration of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(C) advise the Director of National Intelligence on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President;

(D) disseminate terrorism information, including current terrorism threat analysis, to the President, the Vice President, the Secretaries of State, Defense, and Homeland Security, the Attorney General, the Director of the Central Intelligence Agency, and other officials of the executive branch as appropriate, and to the appropriate committees of Congress;

(E) support the Department of Justice and the Department of Homeland Security, and other appropriate agencies, in fulfillment of their responsibilities to disseminate terrorism information, consistent with applicable law, guidelines referred to in section 102A(b), Executive orders and other Presidential guidance, to State and local government officials, and other entities, and coordinate dissemination of terrorism information to foreign governments as approved by the Director of National Intelligence;

(F) develop a strategy for combining terrorist travel intelligence operations and law enforcement planning and operations into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility;

(G) have primary responsibility within the United States Government for conducting net assessments of terrorist threats;

(H) consistent with priorities approved by the President, assist the Director of National Intelligence in establishing requirements for the intelligence community for the collection of terrorism information; and

(I) perform such other duties as the Director of National Intelligence may prescribe or are prescribed by law.

(2) Nothing in paragraph (1)(G) shall limit the authority of the departments and agencies of the United States to conduct net assessments.

(g) Limitation.—The Director of the National Counterterrorism Center may not direct the execution of counterterrorism operations.

(h) Resolution of Disputes.—The Director of National Intelligence shall resolve disagreements between the National Counterterrorism Center and the head of a department, agency, or element of the United States Government on designations, assignments, plans, or responsibilities under this section. The head of such a department, agency, or element may appeal the resolution of the disagreement by the Director of National Intelligence to the President.

(i) Directorate of Intelligence.—The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence which shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States.

(j) Directorate of Strategic Operational Planning.—

(1) The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Strategic Operational Planning which shall provide strategic operational plans for counterterrorism operations conducted by the United States Government.

(2) Strategic operational planning shall include the mission, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities.

(3) The Director of the National Counterterrorism Center shall monitor the implementation of strategic operational plans, and shall obtain information from each element of the intelligence community, and from each other department, agency, or element of the United States Government relevant for monitoring the progress of such entity in implementing such plans.

## National Counter Proliferation Center

Sec. 119A. [50 U.S.C. §404o-1]

(a) Establishment.—(1) The President shall establish a National Counter Proliferation Center, taking into account all appropriate government tools to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(2) The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence. (3) The National Counter Proliferation Center shall be located

within the Office of the Director of National Intelligence.

(b) Missions and Objectives.—In establishing the National Counter Proliferation Center, the President shall address the following missions and objectives to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies:

(1) Establishing a primary organization within the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States pertaining to proliferation.

(2) Ensuring that appropriate agencies have full access to and receive all-source intelligence support needed to execute their counter proliferation plans or activities, and perform independent, alternative analyses.

(3) Establishing a central repository on known and suspected proliferation activities, including the goals, strategies, capabilities, networks, and any individuals, groups, or entities engaged in proliferation.

(4) Disseminating proliferation information, including proliferation threats and analyses, to the President, to the appropriate departments and agencies, and to the appropriate committees of Congress.

(5) Conducting net assessments and warnings about the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(6) Coordinating counter proliferation plans and activities of the various departments and agencies of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(7) Conducting strategic operational counter proliferation planning for the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies.

(c) National Security Waiver.—The President may waive the requirements of this section, and any parts thereof, if the

President determines that such requirements do not materially improve the ability of the United States Government to prevent and halt the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies. Such waiver shall be made in writing to Congress and shall include a description of how the missions and objectives in subsection (b) are being met.

(d) Report to Congress.—

(1) Not later than nine months after the implementation of this Act, the President shall submit to Congress, in classified form if necessary, the findings and recommendations of the President's Commission on Weapons of Mass Destruction established by Executive Order in February 2004, together with the views of the President regarding the establishment of a National Counter Proliferation Center.

(2) If the President decides not to exercise the waiver authority granted by subsection (c), the President shall submit to Congress from time to time updates and plans regarding the establishment of a National Counter Proliferation Center.

(e) Sense of Congress.—It is the sense of Congress that a central feature of counter proliferation activities, consistent with the President's Proliferation Security Initiative, should include the physical interdiction, by air, sea, or land, of weapons of mass destruction, their delivery systems, and related materials and technologies, and enhanced law enforcement activities to identify and disrupt proliferation networks, activities, organizations, and persons.

## National Intelligence Centers

### Sec. 119B. [50 U.S.C. §404o-2]

(a) Authority to Establish.—The Director of National Intelligence may establish one or more national intelligence centers to address intelligence priorities, including, but not limited to, regional issues.

(b) Resources of Directors of Centers.—

(1) The Director of National Intelligence shall ensure that the head of each national intelligence center under subsection (a) has appropriate authority, direction, and control of such center, and of the personnel assigned to such center, to carry out the assigned mission of such center.

(2) The Director of National Intelligence shall ensure that each national intelligence center has appropriate personnel to accomplish effectively the mission of such center.

(c) Information Sharing.—The Director of National Intelligence shall, to the extent appropriate and practicable, ensure that each national intelligence center under subsection (a) and the other elements of the intelligence community share information in order to facilitate the mission of such center.

(d) Mission of Centers.—Pursuant to the direction of the Director of National Intelligence, each national intelligence center under subsection (a) may, in the area of intelligence responsibility assigned to such center—

(1) have primary responsibility for providing all-source analysis of intelligence based upon intelligence gathered both domestically and abroad;

(2) have primary responsibility for identifying and proposing to the Director of National Intelligence intelligence collection and analysis and production requirements; and

(3) perform such other duties as the Director of National Intelligence shall specify.

(e) Review and Modification of Centers.—The Director of National Intelligence shall determine on a regular basis whether

(1) the area of intelligence responsibility assigned to each national intelligence center under subsection (a) continues to meet appropriate intelligence priorities; and

(2) the staffing and management of such center remains appropriate for the accomplishment of the mission of such center.

(f) Termination.—The Director of National Intelligence may terminate any national intelligence center under subsection (a).

(g) Separate Budget Account.—The Director of National Intelligence shall, as appropriate, include in the National Intelligence Program budget a separate line item for each national intelligence center under subsection (a).

## **TITLE II—THE DEPARTMENT OF DEFENSE**

### **Applicable Laws**

Sec. 201. [50 U.S.C. §408]

(d) Except to the extent inconsistent with the provisions of this Act, the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense.

### **Definitions of Military Departments**

Sec. 205. [50 U.S.C. §409]

(a) The term “Department of the Army” as used in this Act shall be construed to mean the Department of the Army at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(b) The term “Department of the Navy” as used in this Act shall be construed to mean the Department of the Navy at the seat of government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(c) The term “Department of the Air Force” as used in this Act shall be construed to mean the Department of the Air Force at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

## **TITLE III—MISCELLANEOUS**

### **National Security Agency Voluntary Separation**

Sec. 301. 50 U.S.C. §409a

- (a) Short Title.—This section may be cited as the “National Security Agency Voluntary Separation Act”.
- (b) Definitions.—For purposes of this section—
  - (1) the term “Director” means the Director of the National Security Agency; and
  - (2) the term “employee” means an employee of the National Security Agency, serving under an appointment without time limitation, who has been currently employed by the National Security Agency for a continuous period of at least 12 months prior to the effective date of the program established under subsection (c), except that such term does not include—
    - (A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or
    - (B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).
  - (c) Establishment of Program.—Notwithstanding any other provision of law, the Director, in his sole discretion, may establish a program under which employees may, after October 1, 2000, be eligible for early retirement, offered separation pay to separate from service voluntarily, or both.
  - (d) Early Retirement.—An employee who—
    - (1) is at least 50 years of age and has completed 20 years of service; or
    - (2) has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the National Security Agency and receive benefits in accordance with chapter 83 or 84 of title 5, United States Code, if the employee has not less than 10 years of service with the National Security Agency.
  - (e) Amount of Separation Pay and Treatment for Other Purposes.—
    - (1) Amount.—Separation pay shall be paid in a lump sum and shall be equal to the lesser of—
      - (A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or
      - (B) \$25,000.
    - (2) Treatment.—Separation pay shall not—

(A) be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(B) be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(f ) Reemployment Restrictions.—An employee who receives separation pay under such program may not be reemployed by the National Security Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–236; 108 Stat. 111) and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the National Security Agency. If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(g) Bar on Certain Employment.—

(1) Bar.—An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the National Security Agency; or

(B) participate in any manner in the award, modification, or extension of any contract for property or services with the National Security Agency, during the 12-month period beginning on the effective date of the employee's separation from service.

(2) Penalty.—An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section multiplied by the proportion of the 12-month period during which the employee was in violation of the agreement.

(h) Limitations.—Under this program, early retirement and separation pay may be offered only—

(1) with the prior approval of the Director;

(2) for the period specified by the Director; and

(3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

(i) Regulations.—Before an employee may be eligible for early retirement, separation pay, or both, under this section, the Director shall prescribe such regulations as may be necessary to carry out this section.

(j) Notification of Exercise of Authority.—The Director may not make an offer of early retirement, separation pay, or both, pursuant to this section until 15 days after submitting to the congressional intelligence committees a report describing the

occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (h), and includes the proposed regulations issued pursuant to subsection (i).

(k) Remittance of Funds.—In addition to any other payment that is required to be made under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, an amount equal to 15 percent of the final basic pay of each employee to whom a voluntary separation payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. §8331 note).

## Authority of Federal Bureau of Investigation

### to Award Personal Services Contracts

Sec. 302. [50 U.S.C. §409b]

(a) In General.—The Director of the Federal Bureau of Investigation may enter into personal services contracts if the personal services to be provided under such contracts directly support the intelligence or counterintelligence missions of the Federal Bureau of Investigation.

(b) Inapplicability of Certain Requirements.—Contracts under subsection (a) shall not be subject to the annuity offset requirements of sections 8344 and 8468 of title 5, United States Code, the requirements of section 3109 of title 5, United States Code, or any law or regulation requiring competitive contracting.

(c) Contract to be Appropriate Means of Securing Services.—The Chief Contracting Officer of the Federal Bureau of Investigation shall ensure that each personal services contract entered into by the Director under this section is the appropriate means of securing the services to be provided under such contract.

## Advisory Committees and Personnel

Sec. 303. [50 U.S.C. §405]

(a) The Director of the Federal Emergency Management Agency, the Director of National Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Retired members of the uniformed services employed by the Director of National Intelligence who hold no other office or position under the United States for which they receive compensation, other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a daily rate not to exceed the daily equivalent of the rate of pay in effect for grade GS-18 of the General Schedule established by section 5332 of title 5, United States Code, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 203, 205, or 207, of title 18, United States Code, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

## **Authorization for Appropriations**

### **Sec. 307. [50 U.S.C. §411]**

There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act (other than the provisions and purposes of sections 102, 103, 104, 105 and titles V, VI, and VII).

## **Definitions**

### **Sec. 308. [50 U.S.C. §410]**

(a) As used in this Act, the term “function” includes functions, powers, and duties.

(b) As used in this Act, the term, “Department of Defense” shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.

## **Severability**

### **Sec. 309. [50 U.S.C. §401 note]**

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

## **Effective Date**

### **Sec. 310. [50 U.S.C. §401 note]**

(a) The first sentence of section 202 (a) and sections 1, 2, 307, 308, 309, and 310 shall take effect immediately upon the enactment of this Act.

(b) Except as provided in subsection (a), the provisions of this Act shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act.

## Repealing and Saving Provisions

### Sec. 411. [50 U.S.C. §412]

All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title.

## TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

### General Congressional Oversight Provisions

#### Sec. 501. [50 U.S.C. §413]

(a)(1) The President shall ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this title.

(2) Nothing in this title shall be construed as requiring the approval of the congressional intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.

(b) The President shall ensure that any illegal intelligence activity is reported promptly to the congressional intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

(c) The President and the congressional intelligence committees shall each establish such written procedures as may be necessary to carry out the provisions of this title.

(d) The House of Representatives and the Senate shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the congressional intelligence committees or to Members of Congress under this title. Such procedures shall be established in consultation with the Director of National Intelligence. In accordance with such procedures, each of the congressional intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities

requiring the attention of such House or such committee or committees.

(e) Nothing in this Act shall be construed as authority to withhold information from the congressional intelligence committees on the grounds that providing the information to the congressional intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

(f) As used in this section, the term “intelligence activities” includes covert actions as defined in section 503(e), and includes financial intelligence activities.

## **Reporting on Intelligence Activities Other than Covert Actions**

Sec. 502. [50 U.S.C. §413a]

(a) In General.—To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 503(e)), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the congressional intelligence committees any information or material concerning intelligence activities(including the legal basis under which the intelligence activity is being or was conducted), other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities. (b) Form and Contents of Certain Reports.—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the congressional intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

(1) A concise statement of any facts pertinent to such report.

(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

(c) Standards and Procedures for Certain Reports.—The Director of National Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).

## **Presidential Approval and Reporting of Covert Actions**

(a) The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

(2) Except as permitted by paragraph (1), a finding may not authorize or sanction a covert action, or any aspect of any such action, which already has occurred.

(3) Each finding shall specify each department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such action. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

(4) Each finding shall specify whether it is contemplated that any third party which is not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

(1) shall keep the congressional intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

(2) shall furnish to the congressional intelligence committees any information or material concerning covert actions (including the legal basis under which the covert action is being or was conducted) which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities. (c)(1) The President shall ensure that any finding approved pursuant to subsection (a) shall be reported in writing to the congressional intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

(2) If the President determines that it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, the finding may be reported to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and such other member or members of the congressional leadership as may be included by the President.

(3) Whenever a finding is not reported pursuant to paragraph (1) or (2) of this section, the President shall fully inform the congressional intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior

notice.

(4) In a case under paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each congressional intelligence committee.

(5)(A) When access to a finding, or a notification provided under subsection (d)(1), is limited to the Members of Congress specified in paragraph (2), a written statement of the reasons for limiting such access shall also be provided.

(B) Not later than 180 days after a statement of reasons is submitted in accordance with subparagraph (A) or this subparagraph, the President shall ensure that—

(i) all members of the congressional intelligence committees are provided access to the finding or notification; or

(ii) a statement of reasons that it is essential to continue to limit access to such finding or such notification to meet extraordinary circumstances affecting vital interests of the United States is submitted to the Members of

Congress specified in paragraph (2).

(d)(1) The President shall ensure that the congressional intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2), are notified in writing of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c).

(2) In determining whether an activity constitutes a significant undertaking for purposes of paragraph (1), the President shall consider whether the activity—

(A) involves significant risk of loss of life;

(B) requires an expansion of existing authorities, including authorities relating to research, development, or operations;

(C) results in the expenditure of significant funds or other resources;

(D) requires notification under section 504;

(E) gives rise to a significant risk of disclosing intelligence sources or methods; or

(F) presents a reasonably foreseeable risk of serious damage to the diplomatic relations of the United States if such activity were disclosed without authorization.

(e) As used in this title, the term “covert action” means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include—

(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

(2) traditional diplomatic or military activities or routine support to such activities;

(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

(f) No covert action may be conducted which is intended to influence

United States political processes, public opinion, policies, or media.

(g)(1) In any case where access to a finding reported under subsection (c) or notification provided under subsection (d)(1) is not made available to all members of a congressional intelligence committee in accordance with subsection (c)(2), the President shall notify all members of such committee that such finding or such notification has been provided only to the members

specified in subsection (c)(2).

(2) In any case where access to a finding reported under

subsection (c) or notification provided under subsection (d)(1) is not

made available to all members of a congressional intelligence committee

in accordance with subsection (c)(2), the President shall provide to all

members of such committee a general description regarding the finding or notification, as applicable, consistent with the reasons for not yet

fully informing all members of such committee.

(3) The President shall maintain—

(A) a record of the members of Congress to whom a finding

is reported under subsection (c) or notification is provided

under subsection (d)(1) and the date on which each member of

Congress receives such finding or notification; and

(B) each written statement provided under subsection

(c)(5).'

## Funding of Intelligence Activities

Sec. 504. [50 U.S.C. §414]

(a) Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

- (1) those funds were specifically authorized by the Congress for use for such activities; or
  - (2) in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 503 of this Act concerning any significant anticipated intelligence activity, the Director of the Central Intelligence Agency has notified the appropriate congressional committees of the intent to make such funds available for such activity; or
  - (3) in the case of funds specifically authorized by the Congress for a different activity—
    - (A) the activity to be funded is a higher priority intelligence or intelligence-related activity;
    - (B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and (C) the Director of National Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity;
  - (4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.
- (b) Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.
- (c) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 503(e), unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.
- (d)(1) Except as otherwise specifically provided by law, funds available to an intelligence agency that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify—
  - (A) the types of activities for which nonappropriated funds may be expended; and
  - (B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.
- (2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the congressional intelligence committees and, as appropriate, the Director of National Intelligence or the Secretary of Defense.
- (e) As used in this section—
  - (1) the term “intelligence agency” means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;
  - (2) the term “appropriate congressional committees” means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and
  - (3) the term “specifically authorized by the Congress” means that—
    - (A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

**Notice to Congress of Certain Transfers of  
Defense Articles and Defense Services**

Sec. 505. [50 U.S.C. §415]

(a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services, exceeding \$1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this title.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(a) of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term “intelligence agency” means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms “defense articles” and “defense services” mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);

(3) the term “transfer” means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term “value” means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

### **Specificity of National Intelligence Program Budget**

**Amounts for Counterterrorism, Counterproliferation,**

**Counternarcotics, and Counterintelligence**

Sec. 506. [50 U.S.C. §415a]

(a) In General.—The budget justification materials submitted to Congress in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall set forth separately the aggregate amount requested for that fiscal year for the National Intelligence Program for each of the following:

(1) Counterterrorism.

(2) Counterproliferation.

(3) Counternarcotics.

(4) Counterintelligence.

(b) Election of Classified or Unclassified Form.—

Amounts set forth under subsection (a) may be set forth in unclassified form or classified form, at the election of the Director of National Intelligence.

### **Budget Treatment of Costs of Acquisition of**

**Major Systems by the Intelligence Community**

Sec. 506A. [50 U.S.C. §415a-1]

(a) Independent Cost Estimates.—

(1) The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

(2)(A) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the major system in each fiscal year of the proposed period of development, procurement, and operation of the major system.

(B) For major system acquisitions requiring a service or capability from another acquisition or program to deliver the end-to-end functionality for the intelligence community end users, independent cost estimates shall include, to the maximum extent practicable, all estimated costs across all pertinent elements of the intelligence community. For collection programs, such cost estimates shall include the cost of new analyst training, new hardware and software for data exploitation and analysis, and any unique or additional costs for data processing, storing, and power, space, and cooling across the life cycle of the program. If such costs for processing, exploitation, dissemination, and storage are scheduled to be executed in other elements of the intelligence community, the independent cost estimate shall identify and annotate such costs for such other elements accordingly.

(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(B) In the case of a program of the intelligence community for which an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed \$500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for such major system.

(4) The independent cost estimate for a major system shall be updated upon—

(A) the completion of any preliminary design review associated with the major system;

(B) any significant modification to the anticipated design of the major system; or

(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under that paragraph.

(b) Preparation of Independent Cost Estimates.—

(1) The Director shall establish within the Office of the Director of National Intelligence an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is made under paragraph (2).

(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) be prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2434(b)(1)(A) of title 10, United States Code.

(c) Utilization in Budgets of President.—

(1) If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major

system by the intelligence community, the President shall, subject to paragraph (2), request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

(2) If the amount of appropriations requested in the budget of the President for the development or procurement of a major system is less than the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget, the President shall include in the budget justification materials submitted to Congress in support of such budget—

(A) an explanation for the difference between the amount of appropriations requested and the amount of appropriations identified in the most current independent cost estimate;

(B) a description of the importance of the major system to the national security;

(C) an assessment of the consequences for the funding of all programs of the National Foreign Intelligence Program in future fiscal years if the most current independent cost estimate for the major system is accurate and additional appropriations are required in future fiscal years to ensure the continued development or procurement of the major system, including the consequences of such funding shortfalls on the major system and all other programs of the National Intelligence Program; and

(D) such other information on the funding of the major system as the President considers appropriate.

(d) Inclusion of Estimates in Budget Justification Materials.—The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

(e) Definitions.—In this section:

(1) The term “budget of the President” means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

(2)(A) The term “independent cost estimate” means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the development, acquisition, procurement, operation, and sustainment of a major system across its proposed life cycle, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

(B) In accordance with subsection (a)(2)(B), each independent

cost estimate shall include all costs required across elements of the intelligence community to develop, acquire, procure, operate, and sustain the system to provide the end-to-end intelligence functionality of the system, including—

(i) for collection programs, the cost of new analyst

training, new hardware and software for data exploitation and analysis, and any unique or additional costs for data processing, storing, and power, space, and cooling across the life cycle of the program; and

(ii) costs for processing, exploitation, dissemination,

and storage scheduled to be executed in other elements

of the intelligence community.

(3) The term “major system” means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding \$500,000,000 (based on fiscal year 2010 constant dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.

## annual personnel level assessments for the intelligence community

Sec. 506B. [50 USC 415a-4.] (a) Requirement To Provide.— The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels for such element for the fiscal year following the fiscal year in which the assessment is submitted.

(b) Schedule.—Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.

(c) Contents.—Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

(1) The budget submission for personnel costs for the upcoming fiscal year.

(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

(5) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions of the current fiscal year.

(6) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

(7) The best estimate of the number and costs of core contract personnel to be funded by the element for the upcoming fiscal year.

(8) The numerical and percentage increase or decrease of such costs of core contract personnel as compared to the best estimate of the costs of core contract personnel of the current fiscal year.

(9) The numerical and percentage increase or decrease of such number and such costs of core contract personnel as compared to the number and cost of core contract personnel during the prior 5 fiscal years.

(10) A justification for the requested personnel and core contract personnel levels.

(11) The best estimate of the number of intelligence of the intelligence community.

(12) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

(A) internal infrastructure to support the requested personnel and core contract personnel levels;

(B) training resources to support the requested personnel levels; and

(C) funding to support the administrative and operational activities of the requested personnel levels.

### **vulnerability assessments of major systems**

Sec. 506C. (50 USC 415a-5.)

(a) Initial Vulnerability Assessments.—

(1)(A) Except as provided in subparagraph (B), the

Director of National Intelligence shall conduct and submit to the

congressional intelligence committees an initial vulnerability

assessment for each major system and its significant items of supply—

(i) except as provided in clause (ii), prior to the

completion of Milestone B or an equivalent acquisition decision for the major system; or

(ii) prior to the date that is 1 year after the date of

the enactment of the Intelligence Authorization Act for Fiscal Year 2010 in the case of a major system for which Milestone B or an equivalent acquisition decision—

(I) was completed prior to such date of enactment;

or

(II) is completed on a date during the 180-day

period following such date of enactment.

(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

- (i) identify vulnerabilities;
- (ii) define exploitation potential;
- (iii) examine the system's potential effectiveness;
- (iv) determine overall vulnerability; and
- (v) make recommendations for risk reduction.

(2) If an initial vulnerability assessment for a major system is

not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation

of funds for the acquisition of the major system shall cease to apply on the date on which the congressional intelligence committees receive the initial vulnerability assessment.

(b) Subsequent Vulnerability Assessments.—

(1) The Director of National Intelligence shall, periodically throughout the procurement of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may, if appropriate, recertify the previous vulnerability assessment or may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in clauses (i) through (v) of subsection (a)(1)(C).

(c) Major System Management.—The Director of National

Intelligence shall give due consideration to the vulnerability

assessments prepared for a given major system when developing and

determining the National Intelligence Program budget.

(d) Congressional Oversight.—

(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent periodic vulnerability assessments of a major system under subsection (b)(1) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

(e) Definitions.—In this section:

(1) The term “item of supply” has the meaning given that term in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

(2) The term “major contract” means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of \$40,000,000 and that is not a firm, fixed price contract.

(3) The term “major system” has the meaning given that term in section 506A(e).

(4) The term “Milestone B” means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

(5) The term “vulnerability assessment” means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.

## **intelligence community business system transformation**

Sec. 506D. (50 USC 415a-6)

(a) Limitation on Obligation of Funds.—

(1) Subject to paragraph (3), no funds appropriated to any

element of the intelligence community may be obligated for an

intelligence community business system transformation that will have a

total cost in excess of \$3,000,000 unless—

(A) the Director of the Office of Business Transformation

of the Office of the Director of National Intelligence makes a certification described in paragraph (2) with respect to such intelligence community business system transformation; and

(B) such certification is approved by the board

established under subsection (f).

(2) The certification described in this

paragraph for an intelligence community business system transformation

is a certification made by the Director of the Office of Business

Transformation of the Office of the Director of National Intelligence

that the intelligence community business system transformation—

(A) complies with the enterprise architecture under

subsection (b) and such other policies and standards that the

Director of National Intelligence considers appropriate; or

(B) is necessary—

(i) to achieve a critical national security

capability or address a critical requirement; or

(ii) to prevent a significant adverse effect on a

project that is needed to achieve an essential

capability, taking into consideration any alternative

solutions for preventing such adverse effect.

(3) With respect to a fiscal year after fiscal year 2010, the

amount referred to in paragraph (1) in the matter preceding subparagraph

(A) shall be equal to the sum of—

(A) the amount in effect under such paragraph (1) for the

preceding fiscal year (determined after application of this

paragraph), plus

(B) such amount multiplied by the annual percentage

increase in the consumer price index (all items; U.S. city

average) as of September of the previous fiscal year.

(b) Enterprise Architecture for Intelligence Community Business

Systems.—

(1) The Director of National Intelligence shall, acting

through the board established under subsection (f), develop

and implement an enterprise architecture to cover all intelligence

community business systems, and the functions and activities supported

by such business systems. The enterprise architecture shall be

sufficiently defined to effectively guide, constrain, and permit

implementation of interoperable intelligence community business system

solutions, consistent with applicable policies and procedures

established by the Director of the Office of Management and Budget.

(2) The enterprise architecture under paragraph (1) shall include

the following:

(A) An information infrastructure that will enable the

intelligence community to—

(i) comply with all Federal accounting, financial

management, and reporting requirements;

(ii) routinely produce timely, accurate, and

reliable financial information for management purposes;

(iii) integrate budget, accounting, and program

information and systems; and

(iv) provide for the measurement of performance,

including the ability to produce timely, relevant, and reliable cost information.

(B) Policies, procedures, data standards, and system

interface requirements that apply uniformly throughout the intelligence community.

(c) Responsibilities for Intelligence Community Business System

Transformation.—The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, including review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of the business system transformation.

(d) Intelligence Community Business System Investment Review.—

(1) The Director of the Office of Business

Transformation of the Office of the Director of National Intelligence shall establish and implement, not later than 60 days after the enactment of the Intelligence Authorization Act for Fiscal Year 2010, an investment review process for the intelligence community business systems for which the Director of the Office of Business Transformation is responsible.

(2) The investment review process under paragraph (1) shall—

(A) meet the requirements of section 11312 of title 40, United States Code; and

(B) specifically set forth the responsibilities of the Director of the Office of Business Transformation under such review process.

(3) The investment review process under paragraph (1) shall

include the following elements:

(A) Review and approval by an investment review board

(consisting of appropriate representatives of the intelligence

community) of each intelligence community business system as an investment before the obligation of funds for such system.

(B) Periodic review, but not less often than annually, of

every intelligence community business system investment.

(C) Thresholds for levels of review to ensure appropriate

review of intelligence community business system investments

depending on the scope, complexity, and cost of the system

involved.

(D) Procedures for making certifications in accordance

with the requirements of subsection (a)(2).

(e) Budget Information.—For each fiscal year after fiscal year 2011, the Director of National Intelligence shall include in the materials the Director submits to Congress in support of the budget for such fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, the following information:

(1) An identification of each intelligence community business system for which funding is proposed in such budget.

(2) An identification of all funds, by appropriation, proposed in such budget for each such system, including—

(A) funds for current services to operate and maintain such system;

(B) funds for business systems modernization identified for each specific appropriation; and

(C) funds for associated business process improvement or reengineering efforts.

(3) The certification, if any, made under subsection (a)(2) with respect to each such system.

(f) Intelligence Community Business System Transformation

Governance Board.—

(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the 'Board').

(2) The Board shall—

(A) recommend to the Director policies and procedures

necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the intelligence community;

(B) review and approve any major update of—

(i) the enterprise architecture developed under subsection (b); and

(ii) any plans for an intelligence community

business systems modernization;

(C) manage cross-domain integration consistent with such

enterprise architecture;

(D) coordinate initiatives for intelligence community

business system transformation to maximize benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an

intelligence community business system transformation;

(E) ensure that funds are obligated for intelligence

community business system transformation in a manner consistent with subsection (a); and

(F) carry out such other duties as the Director shall

specify.

(g) Relation to Annual Registration Requirements.—Nothing in this

section shall be construed to alter the requirements of section 8083 of

the Department of Defense Appropriations Act, 2005 (Public Law 108-287;

118 Stat. 989), with regard to information technology systems (as

defined in subsection (d) of such section).

(h) Relationship to Defense Business Enterprise Architecture.—

Nothing in this section shall be construed to exempt funds authorized to

be appropriated to the Department of Defense from the requirements of section 2222 of title 10, United States Code, to the extent that such requirements are otherwise applicable.

(i) Relation to Clinger-Cohen Act.—

(1) Executive agency

responsibilities in chapter 113 of title 40, United States Code, for any intelligence community business system transformation shall be exercised jointly by—

(A) the Director of National Intelligence and the Chief

Information Officer of the Intelligence Community; and

(B) the head of the executive agency that contains the

element of the intelligence community involved and the chief

information officer of that executive agency.

(2) The Director of National Intelligence and the head of the

executive agency referred to in paragraph (1)(B) shall enter into a

Memorandum of Understanding to carry out the requirements of this

section in a manner that best meets the needs of the intelligence

community and the executive agency.

(j) Reports.—Not later than March 31 of each of the years 2011

through 2015, the Director of National Intelligence shall submit to the

congressional intelligence committees a report on the compliance of the

intelligence community with the requirements of this section. Each such

report shall—

(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

(B) specific actions on the intelligence community business system transformations submitted for certification under such subsection;

(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2); and

(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

(k) Definitions.—In this section:

(1) The term “enterprise architecture” has the meaning given that term in section 3601(4) of title 44, United States Code.

2) The terms “information system” and “information technology” have the meanings given those terms in section 11101 of title 40, United States Code.

(3) The term “intelligence community business system” means an information system, including a national security system, that is operated by, for, or on behalf of an element of the intelligence community, including a financial system, mixed system, financial data feeder system, and the business infrastructure capabilities shared by the systems of the

business enterprise architecture, including people, process, and

technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

(4) The term “intelligence community business system transformation” means—

(A) the acquisition or development of a new intelligence community business system; or

(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

(5) The term “national security system” has the meaning given that term in section 3542 of title 44, United States Code.

(6) The term “Office of Business Transformation of the Office of the Director of National Intelligence” includes any successor office that assumes the functions of the Office of Business Transformation of the Office of the Director of National Intelligence as carried out by the Office of Business Transformation on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010.

## **reports on the acquisition of major systems**

Sec. 506E. (50 USC 415a-7.)

(a) Definitions.—In this section:

(1) The term “cost estimate”—

(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonably available information at the time the Director establishes the 2010 adjusted total acquisition cost for such system pursuant to subsection (h) or restructures such system pursuant to section 506F(c); and

(B) does not mean an ‘independent cost estimate’.

(2) The term “critical cost growth threshold” means a percentage increase in the total acquisition cost for a major system of

at least 25 percent over the total acquisition cost for the major system as shown in the current Baseline Estimate for the major system.

(3)(A) The term "current Baseline Estimate" means the projected total acquisition cost of a major system that is—

(i) approved by the Director, or a designee of the Director, at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system;

(ii) approved by the Director at the time such system is restructured pursuant to section 506F(c); or

(iii) the 2010 adjusted total acquisition cost determined pursuant to subsection (h).

(B) A current Baseline Estimate may be in the form of an

independent cost estimate.

(4) Except as otherwise specifically provided, the term "Director" means the Director of National Intelligence.

(5) The term "independent cost estimate" has the meaning given that term in section 506A(e).

(6) The term "major contract" means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of \$40,000,000 and that is not a firm, fixed price contract.

(7) The term "major system" has the meaning given that term in section 506A(e).

(8) The term "Milestone B" means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director.

(9) The term "program manager" means—

(A) the head of the element of the intelligence community that is

responsible for the budget, cost, schedule, and performance of a

major system; or

(B) in the case of a major system within the Office of the Director of National Intelligence, the deputy who is responsible for the budget, cost, schedule, and performance of the major system.

(10) The term "significant cost growth threshold" means the percentage increase in the total acquisition cost for a major system of at least 15 percent over the total acquisition cost for such system as shown in the current Baseline Estimate for such system.

(11) The term "total acquisition cost" means the amount equal to the total cost for development and procurement of, and system-specific construction for, a major system.

(b) Major System Cost Reports.—

(1) The program manager for a major system shall, on a quarterly basis, submit to the Director a major system cost report as described in paragraph (2).

(2) A major system cost report shall include the following information (as of the last day of the quarter for which the report is

made):

- (A) The total acquisition cost for the major system.
- (B) Any cost variance or schedule variance in a major contract for the major system since the contract was entered into.
- (C) Any changes from a major system schedule milestones or performances that are known, expected, or anticipated by the program manager.
- (D) Any significant changes in the total acquisition cost for development and procurement of any software component of the major system, schedule milestones for such software component of the major system, or expected performance of such software component of the major system that are known, expected, or anticipated by the program manager.

(3) Each major system cost report required by paragraph (1) shall be submitted not more than 30 days after the end of the reporting quarter.

(c) Reports for Breach of Significant or Critical Cost Growth

Thresholds.—If the program manager of a major system for which a report

has previously been submitted under subsection (b) determines at any time during a quarter that there is reasonable cause to believe that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold and if a report indicating an increase of such percentage or more has not previously been submitted to the Director, then the program manager shall immediately submit to

the Director a major system cost report containing the information, determined as of the date of the report, required under subsection (b).

(d) Notification to Congress of Cost Growth.—

- (1) Whenever a major system cost report is submitted to the Director, the Director shall determine whether the current acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold.
- (2) If the Director determines that the current total acquisition cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold, the Director shall submit to Congress a Major System Congressional Report pursuant to subsection (e).

(e) Requirement for Major System Congressional Report.—

- (1) Whenever the Director determines under subsection (d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, a Major System Congressional Report shall be submitted to Congress not later than 45 days after the date on which the Director

receives the major system cost report for such major system.

(2) If the total acquisition cost of a major system (as determined by the Director under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Director shall take actions consistent with the requirements of section 506F.

(f) Major System Congressional Report Elements.—

(1) Except as provided in paragraph (2), each Major System Congressional Report shall include the following:

(A) The name of the major system.

(B) The date of the preparation of the report.

(C) The program phase of the major system as of the date of the preparation of the report.

(D) The estimate of the total acquisition cost for the major system expressed in constant base-year dollars and in current dollars.

(E) The current Baseline Estimate for the major system in constant base-year dollars and in current dollars.

(F) A statement of the reasons for any increase in total acquisition cost for the major system.

(G) The completion status of the major system—

(i) expressed as the percentage that the number of years for which funds have been appropriated for the major system is of the number of years for which it is planned that funds will be appropriated for the major system; and

(ii) expressed as the percentage that the amount of funds that have been appropriated for the major system is of the total amount of funds which it is planned will be appropriated for the major system.

(H) The fiscal year in which the major system was first authorized and in which funds for such system were first appropriated by Congress.

(I) The current change and the total change, in dollars and expressed as a percentage, in the total acquisition cost for the major system, stated both in constant base-year dollars and in current dollars.

(J) The quantity of end items to be acquired under the major system and the current change and total change, if any, in that quantity.

(K) The identities of the officers responsible for management and cost control of the major system.

(L) The action taken and proposed to be taken to control future cost growth of the major system.

(M) Any changes made in the performance or schedule

milestones of the major system and the extent to which such changes have contributed to the increase in total acquisition cost for the major system.

(N) The following contract performance assessment information with respect to each major contract under the major system:

(i) The name of the contractor.

(ii) The phase that the contract is in at the time of the preparation of the report.

(iii) The percentage of work under the contract

that has been completed.

(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

(v) The percentage by which the contract is currently ahead of or behind schedule.

(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the major

system, contributing to the changes identified and a

discussion of the effect these occurrences will have on

the future costs and schedule of the major system.

(O) In any case in which one or more problems with a

software component of the major system significantly contributed to the increase in costs of the major system, the action taken and proposed to be taken to solve such problems.

(2) A Major System Congressional Report prepared for a major system for which the increase in the total acquisition cost is due to termination or cancellation of the entire major system shall include only—

(A) the information described in subparagraphs (A) through

(F) of paragraph (1); and

(B) the total percentage change in total acquisition cost

for such system.

(g) Prohibition on Obligation of Funds.—If a determination of an increase by a percentage equal to or greater than the significant cost growth threshold is made by the Director under subsection (d) and a Major System Congressional Report containing the information described in subsection (f) is not submitted to Congress under subsection (e)(1), or if a determination of an increase by a percentage equal to or greater than the critical cost growth threshold is made by the Director under subsection (d) and the Major System Congressional Report containing the information described in subsection (f) and section 506F(b)(3) and the certification required by section 506F(b)(2) are not submitted to Congress under subsection (e)(2), funds appropriated for construction, research, development, test, evaluation, and procurement may not be obligated for a major contract under the major system. The prohibition on the obligation of funds for a major system shall cease to apply at the end of the 45-day period that begins on the date—

(1) on which Congress receives the Major System Congressional Report under subsection (e)(1) with respect to that major system, in the case of a determination of an increase by a percentage equal to or greater than the significant cost growth threshold (as determined in subsection (d)); or

(2) on which Congress receives both the Major System Congressional Report under subsection (e)(2) and the certification of the Director under section 506F(b)(2) with respect to that major system, in the case of an increase by a percentage equal to or greater than the critical cost growth threshold (as determined under subsection (d)).

(h) Treatment of Cost Increases Prior to

Enactment of Intelligence Authorization Act for Fiscal Year 2010.—

(1) Not later than 180 days after the date of the enactment of the

Intelligence Authorization Act for Fiscal Year 2010, the Director—

(A) shall, for each major system, determine if the total

acquisition cost of such major system increased by a percentage

equal to or greater than the significant cost growth threshold

or the critical cost growth threshold prior to such date of

enactment;

(B) shall establish for each major system for which the

total acquisition cost has increased by a percentage equal to or

greater than the significant cost growth threshold or the

critical cost growth threshold prior to such date of enactment a

revised current Baseline Estimate based upon an updated cost

estimate;

(C) may, for a major system not described in subparagraph (B), establish a revised current Baseline Estimate based upon an

updated cost estimate; and

(D) shall submit to Congress a report describing—

(i) each determination made under subparagraph (A);

(ii) each revised current Baseline Estimate

established for a major system under subparagraph (B);

and

(iii) each revised current Baseline Estimate

established for a major system under subparagraph (C),

including the percentage increase of the total

acquisition cost of such major system that occurred

prior to the date of the enactment of such Act.

(2) The revised current Baseline Estimate established for a major system under subparagraph (B) or (C) of paragraph (1) shall be the 2010 adjusted total acquisition cost for the major system and may include the estimated cost of conducting any vulnerability assessments for such major system required under section 506C.

(i) Requirements To Use Base Year Dollars.—Any determination of a percentage increase under this section shall be stated in terms of constant base year dollars.

(j) Form of Report.—Any report required to be submitted under this section may be submitted in a classified form.

### **critical cost growth in major systems**

#### **Sec. 506F. (50 USC 415a-8.) (a) Reassessment of Major**

**System.**—If the Director of National Intelligence determines under section 506E(d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the critical cost growth threshold for the major system, the Director shall—

(1) determine the root cause or causes of the critical cost growth, in accordance with applicable statutory requirements, policies, procedures, and guidance; and

(2) carry out an assessment of—

(A) the projected cost of completing the major system if current requirements are not modified;

(B) the projected cost of completing the major system based on reasonable modification of such requirements;

(C) the rough order of magnitude of the costs of any reasonable alternative system or capability; and

(D) the need to reduce funding for other systems due to the growth in cost of the major system.

(b) Presumption of Termination.—(1) After conducting the reassessment required by subsection (a) with respect to a major system, the Director shall

terminate the major system unless the Director submits to Congress a Major System Congressional Report containing a certification in accordance with paragraph (2) and the information described in paragraph (3). The Director shall submit such Major System Congressional Report and certification not later than 90 days after the date the Director receives the

relevant major system cost report under subsection (b) or (c) of section 506E.

- (2) A certification described by this paragraph with respect to a major system is a written certification that—
  - (A) the continuation of the major system is essential to the national security;
  - (B) there are no alternatives to the major system that will provide acceptable capability to meet the intelligence requirement at less cost;
  - (C) the new estimates of the total acquisition cost have been determined by the Director to be reasonable;
  - (D) the major system is a higher priority than other systems whose funding must be reduced to accommodate the growth in cost of the major system; and
  - (E) the management structure for the major system is adequate to manage and control the total acquisition cost.
- (3) A Major System Congressional Report accompanying a written certification under paragraph (2) shall include, in addition to the requirements of section 506E(e), the root cause analysis and assessment carried out pursuant to subsection (a), the basis for each determination made in accordance with subparagraphs (A) through (E) of paragraph (2), and a description of all funding changes made as a result of the growth in the cost of the major system, including reductions made in funding for other systems to accommodate such cost growth, together with supporting documentation.
- (c) Actions if Major System Not Terminated.—If the Director elects not to terminate a major system pursuant to subsection (b), the Director shall—
  - (1) restructure the major system in a manner that addresses the root cause or causes of the critical cost growth, as identified pursuant to subsection (a), and ensures that the system has an appropriate management structure as set forth in the certification submitted pursuant to subsection (b)(2)(E);
  - (2) rescind the most recent Milestone approval for the major system;
  - (3) require a new Milestone approval for the major system before taking any action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the system, except to the extent determined necessary by the Milestone Decision Authority, on a nondelegable basis, to ensure that the system may be restructured as intended by the Director without unnecessarily wasting resources;
  - (4) establish a revised current Baseline Estimate for the major system based upon an updated cost estimate; and
  - (5) conduct regular reviews of the major system.
- (d) Actions if Major System Terminated.—If a major system is terminated pursuant to subsection (b), the Director shall submit to Congress a written report setting forth—
  - (1) an explanation of the reasons for terminating the major system;

(2) the alternatives considered to address any problems in the major system; and

(3) the course the Director plans to pursue to meet any intelligence requirements otherwise intended to be met by the major system.

(e) Form of Report.—Any report or certification required to be submitted under this section may be submitted in a classified form.

(f) Waiver.—

(1) The Director may waive the requirements of subsections (d)(2), (e), and (g) of section 506E and subsections (a)(2), (b), (c), and (d) of this section with respect to a major system if the Director determines that at least 90 percent of the amount of the current Baseline Estimate for the major system has been expended.

(2)(A) If the Director grants a waiver under paragraph (1) with respect to a major system, the Director shall submit to the congressional intelligence committees written notice of the waiver that includes—

(i) the information described in section 506E(f); and

(ii) if the current total acquisition cost of the major

system has increased by a percentage equal to or greater than the critical cost growth threshold—

(I) a determination of the root cause or causes of

the critical cost growth, as described in subsection (a)(1); and

(II) a certification that includes the elements described in subparagraphs (A), (B), and (E) of subsection (b)(2).

(B) The Director shall submit the written notice required by subparagraph (A) not later than 90 days after the date that the Director receives a major system cost report under subsection (b) or (c) of section 506E that indicates that the total acquisition cost for the major system has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold.

(g) Definitions.—In this section, the terms “cost estimate”, “critical cost growth threshold”, “current Baseline Estimate”, “major system”, and “total acquisition cost” have the meaning given those terms in section 506E(a).

## **future budget projections**

Sec. 506G. (50 USC 415a-9.) (a) Future Year Intelligence

Plans.—

(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

(A) each expenditure center in the National Intelligence

Program; and

(B) each major system in the National Intelligence Program.

(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent fiscal years.

(B) A Future Year Intelligence Plan submitted under subparagraph

(B) of paragraph (1) for a major system shall include—

(i) the estimated total life-cycle cost of such major

system; and

(ii) major milestones that have significant resource

implications for such major system.

(b) Long-term Budget Projections.—

(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the

congressional intelligence committees a Long-term Budget Projection for

each element of the intelligence community funded under the National

Intelligence Program acquiring a major system that includes the budget

for such element for the 5-year period that begins on the day after the

end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).

(2) A Long-term Budget Projection submitted under paragraph (1)

shall include—

(A) projections for the appropriate element of the intelligence community for—

(i) pay and benefits of officers and employees of such element;

(ii) other operating and support costs and minor acquisitions of such element;

(iii) research and technology required by such element;

(iv) current and planned major system acquisitions for such element;

(v) any future major system acquisitions for such element; and

- (vi) any additional funding projections that the Director of National Intelligence considers appropriate;
  - (B) a budget projection based on effective cost and schedule execution of current or planned major system acquisitions and application of Office of Management and Budget inflation estimates to future major system acquisitions;
  - (C) any additional assumptions and projections that the Director of National Intelligence considers appropriate; and
  - (D) a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.
- (c) Submission to Congress.—The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall submit to the congressional intelligence committees each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) for a fiscal year at the time that the President submits to Congress the budget for such fiscal year pursuant section 1105 of title 31, United States Code.
- (d) Major System Affordability Report.—
- (1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall prepare a report on the acquisition of a major system funded under the National Intelligence Program before the time that the President submits to Congress the budget for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.
  - (2) The report on such major system shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection submitted under section 506G for an element of the intelligence community.
  - (3) The Director of National Intelligence shall update the report whenever an independent cost estimate must be updated pursuant to section 506A(a)(4).
  - (4) The Director of National Intelligence shall submit each report required by this subsection at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31, United States Code.
- (e) Definitions.—In this section:
- (1) Budget year.—The term "budget year" means the next fiscal year for which the President is required to submit to Congress a budget pursuant to section 1105 of title 31, United States Code.

(2) Independent cost estimate; major system.—The terms “independent cost estimate” and “major system” have the meaning given those terms in section 506A(e).

## reports on security clearances

Sec. 506H. [ 50 USC 415a-10.]

(a) Quadrennial Audit of Position Requirements.—(1) The President shall every four years conduct an audit of the manner in which the executive branch determines whether a security clearance is required for a particular position in the United States Government.

(2) Not later than 30 days after the completion of an audit conducted under paragraph (1), the President shall submit to Congress the results of such audit.

(b) Report on Security Clearance Determinations.—(1) Not later than February 1 of each year, the President shall submit to Congress a report on the security clearance process. Such report shall include, for each security clearance level—

(A) the number of employees of the United States

Government who—

(i) held a security clearance at such level as of October 1 of the preceding year; and

(ii) were approved for a security clearance at such level during the preceding fiscal year;

(B) the number of contractors to the United States Government who—

(i) held a security clearance at such level as of October 1 of the preceding year; and

(ii) were approved for a security clearance at such level during the preceding fiscal year; and

(C) for each element of the intelligence community—

(i) the total amount of time it took to process the security clearance determination for such level that—

(I) was among the 80 percent of security clearance determinations made during the receding fiscal year that took the shortest amount of time to complete; and

(II) took the longest amount of time to complete;

(ii) the total amount of time it took to process the security clearance determination for such level that—

(I) was among the 90 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and

(II) took the longest amount of time to complete;

(iii) the number of pending security clearance investigations for such level as of October 1 of the

preceding year that have remained pending for—

- (I) 4 months or less;
  - (II) between 4 months and 8 months;
  - (III) between 8 months and one year; and
  - (IV) more than one year;
- (iv) the percentage of reviews during the preceding fiscal year that resulted in a denial or revocation of a security clearance;
  - (v) the percentage of investigations during the preceding fiscal year that resulted in incomplete information;
  - (vi) the percentage of investigations during the preceding fiscal year that did not result in enough information to make a decision on potentially adverse information; and
  - (vii) for security clearance determinations completed or pending during the preceding fiscal year that have taken longer than one year to complete—
    - (I) the number of security clearance determinations for positions as employees of the United States Government that required more than one year to complete;
    - (II) the number of security clearance determinations for contractors that required more than one year to complete;
    - (III) the agencies that investigated and adjudicated such determinations; and
    - (IV) the cause of significant delays in such determinations.

(2) For purposes of paragraph (1), the President may consider—

- (A) security clearances at the level of confidential and secret as one security clearance level; and
- (B) security clearances at the level of top secret or higher as one security clearance level.

(c) Form.—The results required under subsection (a)(2) and the reports required under subsection (b)(1) shall be submitted in unclassified form, but may include a classified annex.

**SUMMARY OF INTELLIGENCE RELATING TO TERRORIST RECIDIVISM OF DETAINEES HELD AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA**

SEC. 506I. [50 U.S.C. §415 a-11]

(a) IN GENERAL.—The Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Director of the Defense Intelligence Agency, shall make publicly available an unclassified summary of—

(1) intelligence relating to recidivism of detainees currently or formerly held at the Naval Detention Facility at Guantanamo Bay, Cuba, by the Department of Defense; and

(2) an assessment of the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.

(b) UPDATES.—Not less frequently than once every 6 months, the Director of National Intelligence, in consultation with the Director of the Central Intelligence Agency and the Secretary of Defense, shall update and make publicly available an unclassified summary consisting of the information required by subsection (a) and the number of individuals formerly detained at Naval Station, Guantanamo Bay, Cuba, who are confirmed or suspected of returning to terrorist activities after release or transfer from such Naval Station.”.

(2) INITIAL UPDATE.—The initial update required by section 506I(b) of such Act, as added by paragraph (1) of this subsection, shall be made publicly available not later than 10 days after the date the first report following the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2012 is submitted to members and committees of Congress pursuant to section 319 of the Supplemental Appropriations

Act, 2009 (Public Law 111–32; 10 U.S.C. 801 note).

#### **Date of Submittal of Various Annual and Semiannual Reports**

#### **to the Congressional Intelligence Committees**

Sec. 507. [50 U.S.C. §415b]

(a) Annual Reports.—

(1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A):

(A) The annual report on the protection of the identities of covert agents required by section 603.

(B) The annual report of the Inspectors Generals of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

(C) The annual report on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104-293; 50 U.S.C. §2366).

(D) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

- (E) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. §2291–4(c)(2)).
- (F) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. §1901 et seq.) required by section 806(a) of that Act (50 U.S.C. §1906(a)).
- (G) The annual report on hiring and retention of minority employees in the intelligence community required by section 114(c).
- (H) The annual report on outside employment of employees of elements of the intelligence community required by section 102A(u)(2).
- (I) The annual report on financial intelligence on terrorist assets required by section 118.
- (2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):
- (A) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 114(a).
- (B) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(c).
- (b) Semiannual Reports.—The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2):
- (1) The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403q(d)(1)).
- (2) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.
- (3) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 624(h)(2) of the Fair Credit Reporting Act (15 U.S.C. §1681u(h)(2)).
- (4) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. §3414(a)(5)(C)).
- (c) Submittal Dates for Reports.—
- (1)(A) Except as provided in subsection (d), each annual report listed in subsection (a)(1) shall be submitted not later than February 1.
- (B) Except as provided in subsection (d), each annual report listed in subsection (a)(2) shall be submitted not later than December 1.

(2) Except as provided in subsection (d), each semiannual report listed in subsection (b) shall be submitted not later than February 1 and August 1.

(d) Postponement of Submittal.—

(1) Subject to paragraph (3), the date for the submittal of—

(A) an annual report listed in subsection (a)(1) may be postponed until March 1;

(B) an annual report listed in subsection (a)(2) may be postponed until January 1; and

(C) a semiannual report listed in subsection (b) may be postponed until March 1 or September 1, as the case may be, if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.

### **certification of compliance with oversight requirements**

Sec. 508. [ 50 USC 415d.] The head of each element of the intelligence community shall annually submit to the congressional intelligence committees—

(1) a certification that, to the best of the knowledge of the head of such element—

(A) the head of such element is in full compliance with the requirements of this title; and

(B) any information required to be submitted by the head of such element under this Act before the date of the submission of such certification has been properly submitted; or

(2) if the head of such element is unable to submit a certification under paragraph (1), a statement—

(A) of the reasons the head of such element is unable to submit

such a certification;

(B) describing any information required to be submitted by the head of such element under this Act before the date of the submission of such statement that has not been properly submitted; and

(C) that the head of such element will submit such information as soon as possible after the submission of such statement.

## **TITLE VI—PROTECTION OF CERTAIN**

### **NATIONAL SECURITY INFORMATION**

#### **Protection of Identities of Certain United States Undercover**

#### **Intelligence Officers, Agents, Informants, and Sources**

Sec. 601. [50 U.S.C. §421]

(a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than 15 years, or both.

(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined under title 18, United States Code, or imprisoned not more than three years, or both.

(d) A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

#### **Defenses and Exceptions**

(a) It is a defense to a prosecution under section 601 that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

(b)(1) Subject to paragraph (2), no person other than a person committing an offense under section 601 shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18, United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

(c) It shall not be an offense under section 601 to transmit information described in such section directly to either congressional intelligence committee.

(d) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent.

## Report

### Sec. 603. [50 U.S.C. §423]

(a) The President, after receiving information from the Director of National Intelligence, shall submit to the congressional intelligence committees an annual report on measures to protect the identities of covert agents, including an assessment of the need, if any, for modification of this title for the purpose of improving legal protections for covert agents, and on any other matter relevant to the protection of the identities of covert agents. The date for the submittal of the report shall be the date provided in section 507. (b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure.

## Extraterritorial Jurisdiction

### Sec. 604. [50 U.S.C. §424]

There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

## Providing Information to Congress

Sec. 605. [50 U.S.C. §425]

Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

**Definitions**

Sec. 606. [50 U.S.C. §426]

For the purposes of this title:

- (1) The term “classified information” means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.
- (2) The term “authorized”, when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.
- (3) The term “disclose” means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.
- (4) The term “covert agent” means—
  - (A) a present or retired officer or employee of an intelligence agency or a present or retired member of the Armed Forces assigned to duty with an intelligence agency—
    - (i) whose identity as such an officer, employee, or member is classified information, and
    - (ii) who is serving outside the United States or has within the last five years served outside the United States; or
  - (B) a United States citizen whose intelligence relationship to the United States is classified information, and—
    - (i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or
    - (ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or
  - (C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term “intelligence agency” means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

(6) The term “informant” means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(7) The terms “officer” and “employee” have the meanings given such terms by section 2104 and 2105, respectively, of title 5, United States Code.

(8) The term “Armed Forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term “United States”, when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term “pattern of activities” requires a series of acts with a common purpose or objective.

## TITLE VII—PROTECTION OF OPERATIONAL FILES

### Operational Files of the Central Intelligence Agency

Sec. 701. [50 U.S.C. §431]

(a) The Director of the Central Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the Central Intelligence Agency from the provisions of section 552 of title 5, United States Code (Freedom of Information Act), which require publication or disclosure, or search or review in connection therewith.

(b) In this section, the term “operational files” means—

(1) files of the National Clandestine Service which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Personnel Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources; except that files which are the sole repository of disseminated intelligence are not operational files.

(c) Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on

themselves pursuant to the provisions of section 552 of title 5, United States Code (Freedom of Information Act), or section 552a of title 5, United States Code (Privacy Act of 1974);

(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act); or

(3) the specific subject matter of an investigation by the congressional intelligence committees, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of National Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

(d)(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that—

(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined ex parte, in camera by the court;

(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

(3) when a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence;

(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules

26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(g) Decennial Review of Exempted Operational Files—

(1) Not less than once every ten years, the Director of the Central Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the Central Intelligence Agency has conducted the review required by paragraph (1) before October 15, 1994, or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the Central Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

## Operational Files of the

### National Geospatial-Intelligence Agency

#### Sec. 702. [50 U.S.C. §432]

(a) Exemption of Certain Operational Files from Search, Review, Publication, or Disclosure.—

(1) The Director of the National Geospatial-Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the National Geospatial-Intelligence Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term "operational files" means files of the National Geospatial-Intelligence Agency (hereafter in this section referred to as "NGA") concerning the activities of NGA that before

the establishment of NGA were performed by the National Photographic Interpretation Center of the Central Intelligence Agency (NPIC), that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The congressional intelligence committees.

(ii) The Intelligence Oversight Board.

(iii) The Department of Justice.

(iv) The Office of General Counsel of NGA.

(v) The Office of the Director of NGA.

(vi) The Office of the Inspector General of the National-Geospatial Intelligence Agency.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NGA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NGA, such

information shall be examined ex parte, in camera by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NGA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

(II) The court may not order NGA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NGA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NGA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NGA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NGA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of National Intelligence prior to submission to the court.

(b) Decennial Review of Exempted Operational Files.—

(1) Not less than once every 10 years, the Director of the National Geospatial-Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NGA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NGA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NGA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

## Operational Files of the National Reconnaissance Office

Sec. 703. [50 U.S.C. §432a]

(a) Exemption of Certain Operational Files from Search, Review, Publication, or Disclosure.—

(1) The Director of the National Reconnaissance Office, with the coordination of the Director of National Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(2)(A) Subject to subparagraph (B), for the purposes of this section, the term “operational files” means files of the National Reconnaissance Office (hereafter in this section referred to as “NRO”) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(B) Files which are the sole repository of disseminated intelligence are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(i) The Permanent Select Committee on Intelligence of the House of Representatives.

(ii) The Select Committee on Intelligence of the Senate.

(iii) The Intelligence Oversight Board.

(iv) The Department of Justice.

(v) The Office of General Counsel of NRO.

(vi) The Office of the Director of NRO.

(vii) The Office of the Inspector General of the NRO.

(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not

affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined ex parte, in camera by the court.

(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the

Director of National Intelligence prior to submission to the court.

(b) Decennial Review of Exempted Operational Files.—

(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of National Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

## **Operational Files of the National Security Agency**

Sec. 704. [50 U.S.C. §432b]

(a) Exemption of Certain Operational Files from Search, Review, Publication, or Disclosure.—The Director of the National Security Agency, in coordination with the Director of National Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(b) Operational Files Defined.—

(1) In this section, the term “operational files” means—

(A) files of the Signals Intelligence Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

(B) files of the Research Associate Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

(2) Files that are the sole repository of disseminated intelligence, and files that have been accessioned into the National Security Agency Archives (or any successor organization) are not operational files.

(c) Search and Review for Information.—Notwithstanding subsection (a), exempted operational files shall continue to be

subject to search and review for information concerning any of the following:

- (1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.
- (2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.
- (3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:
  - (A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.
  - (B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.
  - (C) The Intelligence Oversight Board.
  - (D) The Department of Justice.
  - (E) The Office of General Counsel of the National Security Agency.
  - (F) The Office of the Inspector General of the Department of Defense.
  - (G) The Office of the Director of the National Security Agency.
  - (H) The Office of the Inspector General of the National Security Agency.
- (d) Information Derived or Disseminated from Exempted Operational Files.—
  - (1) Files that are not exempted under subsection (a) that contain information derived or disseminated from exempted operational files shall be subject to search and review.
  - (2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.
  - (3) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.
  - (4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.
- (e) Supercedure of Other Laws.—The provisions of subsection (a) may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.
- (f) Allegation; Improper Withholding of Records; Judicial Review.—
  - (1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the National Security Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B)

(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the National Security Agency, such information shall be examined *ex parte*, *in camera* by the court.

(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

(C) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the National Security Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b).

(ii) The court may not order the National Security Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the National Security Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(E) In proceedings under subparagraphs (C) and (D), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

(F) If the court finds under this subsection that the National Security Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (g)).

(G) If at any time following the filing of a complaint pursuant to this paragraph the National Security Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

(g) Decennial Review of Exempted Operational Files.—

(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determination to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that the National Security Agency has improperly withheld records because of failure to

comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the National Security Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the National Security Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

## **Operational Files of the Defense Intelligence Agency**

Sec. 705. [50 U.S.C. §432c]

(a) Exemption of Operational Files. —The Director of the Defense Intelligence Agency, in coordination with the Director of National Intelligence, may exempt operational files of the Defense Intelligence Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(b) Operational Files Defined. —

(1) In this section, the term “operational files” means—

(A) files of the Directorate of Human Intelligence of the Defense Intelligence Agency (and any successor organization of that directorate) that document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services; and

(B) files of the Directorate of Technology of the Defense Intelligence Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems.

(2) Files that are the sole repository of disseminated intelligence are not operational files.

(c) Search and Review for Information. —Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning:

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(C) The Intelligence Oversight Board.

(D) The Department of Justice.

(E) The Office of General Counsel of the Department of Defense or of the Defense Intelligence Agency.

(F) The Office of Inspector General of the Department of Defense or of the Defense Intelligence Agency.

(G) The Office of the Director of the Defense Intelligence Agency.

(d) Information Derived or Disseminated From Exempted Operational Files.—

(1) Files that are not exempted under subsection (a) that contain information derived or disseminated from exempted operational files shall be subject to search and review.

(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.

(3) The declassification of some of the information contained in an exempted operational file shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) Allegation; Improper Withholding of Records; Judicial Review. —

(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Defense Intelligence Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Defense Intelligence Agency, such information shall be examined ex parte, in camera by the court.

(B) The court shall determine, to the fullest extent practicable, issues of fact based on sworn written submissions of the parties.

(C) When a complainant alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain

responsive records currently perform the functions set forth in subsection (b).

(ii) The court may not order the Defense Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Defense Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(E) In proceedings under subparagraphs (C) and (D), the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36.

(F) If the court finds under this subsection that the Defense Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Defense Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (f)).

(G) If at any time following the filing of a complaint pursuant to this paragraph the Defense Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

(f) Decennial Review of Exempted Operational Files. —

(1) Not less than once every 10 years, the Director of the Defense Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determinations to remove such exemptions.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that the Defense Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the Defense Intelligence Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the Defense Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(g) Termination.—This section shall cease to be effective on December 31, 2007.

Sec. 706. [50 USC 432d.] (a) Inapplicability of FOIA to

Exempted Operational Files Provided to ODNI.—(1) Subject to paragraph

(2), the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record shall not apply to a record provided to the Office of the Director of National Intelligence by an element of the intelligence community from the exempted operational files of such element.

(2) Paragraph (1) shall not apply with respect to a record of the Office that—

(A) contains information derived or disseminated from an

exempted operational file, unless such record is created by the

Office for the sole purpose of organizing such exempted

operational file for use by the Office;

(B) is disseminated by the Office to a person other than

an officer, employee, or contractor of the Office; or

(C) is no longer designated as an exempted operational

file in accordance with this title.

(b) Effect of Providing Files to ODNI.—Notwithstanding any other provision of this title, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

(c) Search and Review for Certain Purposes.—Notwithstanding subsection (a) or (b), an exempted operational file shall continue to be subject to search and review for information concerning any of the following:

(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

(A) The Select Committee on Intelligence of the Senate.

(B) The Permanent Select Committee on Intelligence of the House of Representatives.

(C) The Intelligence Oversight Board.

(D) The Department of Justice.

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

(F) The Office of the Inspector General of the Intelligence Community.

(d) Decennial Review of Exempted Operational Files.—(1) Not less than once every 10 years, the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 or before the expiration of the 10-year period beginning on the date of the most recent review.

(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

(e) Supersedure of Other Laws.—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

(f) Allegation; Improper Withholding of Records; Judicial Review.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such

information shall be examined ex parte, in camera by the court.

(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office may meet the burden of the Office under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

(ii) The court may not order the Office to review the content of any exempted file in order to make the demonstration required under clause (i), unless the complainant disputes the Office's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36 of the Federal Rules of Civil Procedure.

(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review each appropriate exempted file for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section.

(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search each appropriate exempted file for the requested records, the court shall dismiss the claim based upon such complaint.

(g) Definitions.—In this section:

(1) The term “exempted operational file” means a file of an element of the intelligence community that, in accordance with this title, is exempted from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of such file.

(2) Except as otherwise specifically provided, the term “Office” means the Office of the Director of National Intelligence.

## **TITLE VIII—ACCESS TO CLASSIFIED INFORMATION PROCEDURES**

### **Procedures**

#### **Sec. 801. [50 U.S.C 435]**

(a) Not later than 180 days after the date of enactment of this title, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, travel records, and computers used in the performance of Government duties, as determined by the President, in accordance with section 802 of this title, during the period of access to classified information and for a period of three years thereafter;

(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this title are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

(b)(1) Subsection (a) shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed by subsection (a) cannot be invoked in a manner that is consistent with the national security.

(2) Upon the exercise of such responsibility, the agency head shall submit a report to the congressional intelligence

committees.

## Requests by Authorized Investigative Agencies

Sec. 802. [50 U.S.C. §436]

(a)(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

(2) Requests may be made under this section where—

(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access

to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

(3) Each such request—

(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that—

(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

(C) shall identify specifically or by category the records or information to be reviewed; and

(D) shall inform the recipient of the request of the prohibition described in subsection (b).

(b) Prohibition of Certain Disclosure—

(1) If an authorized investigative agency described in subsection (a) certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that such entity has received or satisfied a request made by an authorized investigative agency under this section.

(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

(4) At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).

(c)(1) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(d) Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

(e) An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

(1) to the agency employing the employee who is the subject of the records or information;

(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

(f) Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. §3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. §1681 et seq.).

## **Exceptions**

Sec. 803. [50 U.S.C. §437]

Except as otherwise specifically provided, the provisions of this title shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

## **Definitions**

Sec. 804. [50 U.S.C. §438]

For purposes of this title—

- (1) the term “authorized investigative agency” means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;
- (2) the term “classified information” means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954, to require protection against unauthorized disclosure and that is so designated;
- (3) the term “consumer reporting agency” has the meaning given such term in section 603 of the Consumer Credit Protection Act (15 U.S.C. §1681a);
- (4) the term “employee” includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;
- (5) the terms “financial agency” and “financial institution” have the meanings given to such terms in section 5312(a) of title 31, United States Code, and the term “holding company” has the meaning given to such term in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. §3401);
- (6) the terms “foreign power” and “agent of a foreign power” have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. §1801);
- (7) the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States; and
- (8) the term “computer” means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility

directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.

## **TITLE IX—APPLICATION OF SANCTIONS LAWS**

### **TO INTELLIGENCE ACTIVITIES**

#### **Stay of Sanctions**

##### **Sec. 901. [50 U.S.C. §441]**

Notwithstanding any provision of law identified in section 904, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines and reports to Congress in accordance with section 903 that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 902.

#### **Extension of Stay**

##### **Sec. 902. [50 U.S.C. §441a]**

Whenever the President determines and reports to Congress in accordance with section 903 that a stay of sanctions or related actions pursuant to section 901 has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 901 for successive periods of not more than 120 days each.

#### **Reports**

##### **Sec. 903. [50 U.S.C. §441b]**

Reports to Congress pursuant to sections 901 and 902 shall be submitted promptly upon determinations under this title. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the congressional intelligence committees. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House

of Representatives and the Senate.

## Laws Subject to Stay

### Sec. 904. [50 U.S.C. §441c]

The President may use the authority of sections 901 and 902 to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182); the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102–484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103–87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103–306); and comparable provisions.

## TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

### Subtitle A – Science and Technology

#### Scholarships and Work-Study for Pursuit of

#### Graduate Degrees in Science and Technology

### Sec. 1001. [50 U.S.C. §441g]

(a) Program Authorized.—The Director of National Intelligence may carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

(b) Administration.—If the Director of National Intelligence carries out the program under subsection (a), the Director shall administer the program through the Office of the Director of National Intelligence.

(c) Identification of Fields of Study.—If the Director of National Intelligence carries out the program under subsection (a), the Director shall identify fields of study under subsection (a) in consultation with the other heads of the elements of the intelligence community.

(d) Eligibility for Participation.—An individual eligible to participate in the program is any individual who—

(1) either—

- (A) is an employee of the intelligence community; or
  - (B) meets criteria for eligibility for employment in the intelligence community that are established by the Director of National Intelligence;
- (2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a); and
- (3) is eligible for a security clearance at the level of Secret or above.
- (e) **Regulations.**—If the Director of National Intelligence carries out the program under subsection (a), the Director shall prescribe regulations for purposes of the administration of this section.

## **Framework for Cross-Disciplinary Education and Training**

Sec. 1002. [50 U.S.C. §441g-1]

The Director of National Intelligence shall establish an integrated framework that brings together the educational components of the intelligence community in order to promote a more effective and productive intelligence community through cross-disciplinary education and joint training.

## **Subtitle B – Foreign Languages Program**

### **Program on Advancement of Foreign Languages**

#### **Critical to the Intelligence Community**

Sec. 1011. [50 U.S.C. §441j]

- (a) **In General.**—The Secretary of Defense and the Director of National Intelligence may jointly carry out a program to advance skills in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States (hereinafter in this subtitle referred to as the Foreign Languages Program').
- (b) **Identification of Requisite Actions.**—In order to carry out the Foreign Languages Program, the Secretary of Defense and the Director of National Intelligence shall jointly identify actions required to improve the education of personnel in the intelligence community in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States and to meet the long-term intelligence needs of the United States.

## **Education Partnerships**

Sec. 1012. [50 U.S.C. §441j-1]

(a) In General.—In carrying out the Foreign Languages Program, the head of a covered element of the intelligence community may enter into one or more education partnership agreements with educational institutions in the United States in order to encourage and enhance the study in such educational institutions of foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States.

(b) Assistance Provided Under Educational Partnership Agreements.—Under an educational partnership agreement entered into with an educational institution pursuant to this section, the head of a covered element of the intelligence community may provide the following assistance to the educational institution:

(1) The loan of equipment and instructional materials of the element of the intelligence community to the educational institution for any purpose and duration that the head of the element considers appropriate.

(2) Notwithstanding any other provision of law relating to the transfer of surplus property, the transfer to the educational institution of any computer equipment, or other equipment, that is—

(A) commonly used by educational institutions;

(B) surplus to the needs of the element of the intelligence community; and

(C) determined by the head of the element to be appropriate for support of such agreement.

(3) The provision of dedicated personnel to the educational institution—

(A) to teach courses in foreign languages that are critical to the capability of the intelligence community to carry out the national security activities of the United States; or

(B) to assist in the development for the educational institution of courses and materials on such languages.

(4) The involvement of faculty and students of the educational institution in research projects of the element of the intelligence community.

(5) Cooperation with the educational institution in developing a program under which students receive academic credit at the educational institution for work on research projects of the element of the intelligence community.

(6) The provision of academic and career advice and assistance to students of the educational institution.

(7) The provision of cash awards and other items that the head of the element of the intelligence community considers appropriate.

## Voluntary Services

Sec. 1013. [50 U.S.C. §441j-2]

(a) Authority to Accept Services.—Notwithstanding section 1342 of title 31, United States Code, and subject to subsection (b), the Foreign Languages Program under section 1011 shall include authority for the head of a covered element of the intelligence community to accept from any dedicated personnel voluntary services in support of the activities authorized by this subtitle.

(b) Requirements and Limitations.—

(1) In accepting voluntary services from an individual under subsection (a), the head of a covered element of the intelligence community shall—

(A) supervise the individual to the same extent as the head of the element would supervise a compensated employee of that element providing similar services; and

(B) ensure that the individual is licensed, privileged, has appropriate educational or experiential credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(2) In accepting voluntary services from an individual under subsection (a), the head of a covered element of the intelligence community may not—

(A) place the individual in a policymaking position, or other position performing inherently governmental functions; or

(B) compensate the individual for the provision of such services.

(c) Authority to Recruit and Train Individuals Providing Services.—The head of a covered element of the intelligence community may recruit and train individuals to provide voluntary services under subsection (a).

(d) Status of Individuals Providing Services.—

(1) Subject to paragraph (2), while providing voluntary services under subsection (a) or receiving training under subsection (c), an individual shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Section 552a of title 5, United States Code (relating to maintenance of records on individuals).

(B) Chapter 11 of title 18, United States Code (relating to conflicts of interest).

(2)(A) With respect to voluntary services under paragraph (1) provided by an individual that are within the scope of the services accepted under that paragraph, the individual shall be deemed to be a volunteer of a governmental entity or nonprofit institution for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. §14501 et seq.).

(B) In the case of any claim against such an individual with respect to the provision of such services, section 4(d) of such Act (42 U.S.C. §14503(d)) shall not apply.

(3) Acceptance of voluntary services under this section shall have no bearing on the issuance or renewal of a security clearance.

(e) Reimbursement of Incidental Expenses.—

(1) The head of a covered element of the intelligence community may reimburse an individual for incidental expenses incurred by the individual in providing voluntary services under subsection (a). The head of a covered element of the intelligence community shall determine which expenses are eligible for reimbursement under this subsection.

(2) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

(f) Authority to Install Equipment.—

(1) The head of a covered element of the intelligence community may install telephone lines and any necessary telecommunication equipment in the private residences of individuals who provide voluntary services under subsection (a).

(2) The head of a covered element of the intelligence community may pay the charges incurred for the use of equipment installed under paragraph (1) for authorized purposes.

(3) Notwithstanding section 1348 of title 31, United States Code, the head of a covered element of the intelligence community may use appropriated funds or nonappropriated funds of the element in carrying out this subsection.

## Regulations

Sec. 1014. [50 U.S.C. §441j-3]

(a) In General.—The Secretary of Defense and the Director of National Intelligence shall jointly prescribe regulations to carry out the Foreign Languages Program.

(b) Elements of the Intelligence Community.—The head of each covered element of the intelligence community shall prescribe regulations to carry out sections 1012 and 1013 with respect to that element including the following:

(1) Procedures to be utilized for the acceptance of voluntary services under section 1013.

(2) Procedures and requirements relating to the installation of equipment under section 1013(f).

## Definitions

Sec. 1015. [50 U.S.C. §441j-4]

In this subtitle:

(1) The term “covered element of the intelligence community” means an agency, office, bureau, or element referred to in subparagraphs (B) through (L) of section 3(4).

(2) The term “educational institution” means—

(A) a local educational agency (as that term is defined in section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. §7801(26)));

(B) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. §1002) other than institutions referred to in subsection (a)(1)(C) of such section); or

(C) any other nonprofit institution that provides instruction of foreign languages in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

(3) The term “dedicated personnel” means employees of the intelligence community and private citizens (including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged, honorably separated, or generally discharged under honorable circumstances and rehired on a voluntary basis specifically to perform the activities authorized under this subtitle).

## **Subtitle C – Additional Education Programs**

### **Assignment of Intelligence Community**

#### **Personnel as Language Students**

Sec. 1021. [50 U.S.C. §441m]

(a) In General.—The Director of National Intelligence, acting through the heads of the elements of the intelligence community, may assign employees of such elements in analyst positions requiring foreign language expertise as students at accredited professional, technical, or other institutions of higher education for training at the graduate or undergraduate level in foreign languages required for the conduct of duties and responsibilities of such positions.

(b) Authority for Reimbursement of Costs of Tuition and Training.—

(1) The Director of National Intelligence may reimburse an employee assigned under subsection (a) for the total cost of the training described in that subsection, including costs of educational and supplementary reading materials.

(2) The authority under paragraph (1) shall apply to employees who are assigned on a full-time or part-time basis.

(3) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

(c) Relationship to Compensation as an Analyst.—Reimbursement under this section to an employee who is an analyst is in addition to any benefits, allowances, travel expenses, or other compensation the employee is entitled to by reason of serving in such an analyst position.

#### **program on recruitment and training**

Sec. 1022. [50 U.S.C. §441n]

(a) Program.—(1) The Director of National Intelligence shall carry out a program to ensure that selected students or former students are provided funds to continue academic training, or are reimbursed for academic training previously obtained, in

areas of specialization that the Director, in consultation

with the other heads of the elements of the intelligence community,

identifies as areas in which the current capabilities of the intelligence community are deficient or in which future capabilities of the intelligence community are likely to be deficient.

(2) A student or former student selected for participation in the

program shall commit to employment with an element of the intelligence community, following completion of appropriate academic training, under such terms and conditions as the Director considers appropriate.

(3) The program shall be known as the Pat Roberts Intelligence

Scholars Program.

(b) Elements.—In carrying out the program under subsection (a),

the Director shall—(1) establish such requirements relating to the academic

training of participants as the Director considers appropriate to ensure that participants are prepared for employment as intelligence professionals; and

(2) periodically review the areas of specialization of the

elements of the intelligence community to determine the areas in

which such elements are, or are likely to be, deficient in

capabilities.

(c) Use of Funds.—Funds made available for the program under

subsection (a) shall be used—

(1) to provide a monthly stipend for each month that a

student is pursuing a course of study;

(2) to pay the full tuition of a student or former student

for the completion of such course of study;

(3) to pay for books and materials that the student or

former student requires or required to complete such course of

study;

(4) to pay the expenses of the student or former student

for travel requested by an element of the intelligence community

in relation to such program; or

(5) for such other purposes the Director considers

reasonably appropriate to carry out such program.

### **educational scholarship program**

Sec. 1023. [50 U.S.C. §441o] The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program that the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

### **intelligence officer training program**

Sec. 1024. [ 50 U.S.C. §441p] (a) Programs.—

(1) The Director of National Intelligence may carry out grant programs in accordance with subsections (b) and (c) to enhance the recruitment and retention of an ethnically and culturally diverse intelligence community workforce with capabilities critical to the national security interests of the United States.

(2) In carrying out paragraph (1), the Director shall identify the skills necessary to meet current or emergent needs of the intelligence community and the educational disciplines that will provide individuals with such skills.

(b) Institutional Grant Program.—

(1) The Director may provide grants to institutions of higher education to support the establishment or continued development of programs of study in educational disciplines identified under subsection (a)(2).

(2) A grant provided under paragraph (1) may, with respect to the educational disciplines identified under subsection (a)(2), be used for the following purposes:

- (A) Curriculum or program development.
- (B) Faculty development.
- (C) Laboratory equipment or improvements.
- (D) Faculty research.

(c) Grant Program for Historically Black Colleges and Universities.—(1) The Director may provide grants to historically black colleges and universities to provide programs of study in educational disciplines identified under subsection (a)(2) or described in paragraph (2).

(2) A grant provided under paragraph (1) may be used to provide programs of study in the following educational disciplines:

(A) Intermediate and advanced foreign languages deemed in the immediate interest of the intelligence community, including Farsi, Pashto, Middle Eastern, African, and South Asian dialects.

(B) Study abroad programs and cultural immersion programs.

(d) Application.—An institution of higher education seeking a grant under this section shall submit an application describing the proposed use of the grant at such time and in such manner as the Director may require.

(e) Reports.—An institution of higher education that receives a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

- (1) a description of the benefits to students who participate in the course of study funded by such grant;
- (2) a description of the results and accomplishments related to such course of study; and
- (3) any other information that the Director may require.

(f) Regulations.—The Director shall prescribe such regulations as may be necessary to carry out this section.

(g) Definitions.—In this section:

(1) The term “Director” means the Director of National Intelligence.

(2) Historically black college and

university.—The term “historically black college and university” has the meaning given the term ‘part B institution’ in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(3) The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) Study abroad program.—The term “study abroad program” means a program of study that—

(A) takes places outside the geographical boundaries of the United States;

(B) focuses on areas of the world that are critical to the national security interests of the United States and are generally underrepresented in study abroad programs at institutions of higher education, including Africa, Asia, Central and Eastern

Europe, Eurasia, Latin America, and the Middle East; and

(C) is a credit or noncredit program.

## **TITLE XI—ADDITIONAL MISCELLANEOUS PROVISIONS**

### **Applicability to United States Intelligence Activities of Federal Laws Implementing International Treaties and Agreements**

Sec. 1101. [50 U.S.C. §442]

(a) In General.—No Federal law enacted on or after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2001 that implements a treaty or other international agreement shall be construed as making unlawful an otherwise lawful and authorized intelligence activity of the United States Government or its employees, or any other person to the extent such other person is carrying out such activity on behalf of, and at the direction of, the United States, unless such Federal law specifically addresses such intelligence activity.

(b) Authorized Intelligence Activities.—An intelligence activity shall be treated as authorized for purposes of subsection (a) if the intelligence activity is authorized by an appropriate official of the United States Government, acting within the scope of the official duties of that official and in compliance with Federal law and any applicable Presidential directive.

### **Counterintelligence Initiatives**

Sec. 1102. [50 U.S.C. §442a]

(a) Inspection Process.—

In order to protect intelligence sources and methods from unauthorized disclosure, the Director of National Intelligence shall establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States intended to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.

(b) Annual Review of Dissemination Lists.—

(1) The Director of National Intelligence shall establish and implement a process for all elements of the intelligence community to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized need to know' (as determined by the Director) are continued on such distribution lists.

(2) Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.

(c) Completion of Financial Disclosure Statements Required for Access to Certain Classified Information.—

The Director of National Intelligence shall establish and implement a process by which each head of an element of the intelligence community directs that all employees of that element, in order to be granted access to classified information referred to in subsection (a) of section 1.3 of Executive Order No. 12968 (August 2, 1995; 60 Fed. Reg. 40245; 50 U.S.C. §435 note), submit financial disclosure forms as required under subsection (b) of such section.

(d) Arrangements to Handle Sensitive Information.—The Director of National Intelligence shall establish, for all elements of the intelligence community, programs and procedures by which sensitive classified information relating to human intelligence is safeguarded against unauthorized disclosure by employees of those elements.

**Misuse of the office of the director of national intelligence name, initials, or seal**

Sec. 1103. [50 USC 442b.] (a) Prohibited Acts.—No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director, knowingly use the words "Office of the Director of National Intelligence", the initials "ODNI", the seal of the Office of the Director of National Intelligence, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

(b) Injunction.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

Reporting Requirements for Section 1032 of the National Defense Authorization Act for Fiscal Year 2012 that imposes additional requirements on the annual National Security Strategy report:

**SEC. 1032. NATIONAL SECURITY PLANNING GUIDANCE TO DENY SAFE HAVENS TO AL-QAEDA AND ITS VIOLENT EXTREMIST AFFILIATES.**

(a) PURPOSE.—The purpose of this section is to improve interagency

strategic planning and execution to more effectively integrate efforts to deny safe havens and strengthen at-risk states to further the goals of the National Security Strategy related to the disruption, dismantlement, and defeat of al-Qaeda and its violent extremist affiliates.

(b) NATIONAL SECURITY PLANNING GUIDANCE.—

(1) GUIDANCE REQUIRED.—The President shall issue classified or unclassified national security planning guidance in support of objectives stated in the national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a) to deny safe havens to al-Qaeda and its violent extremist affiliates and to strengthen at-risk states. Such guidance shall serve as the strategic plan that governs United States and coordinated international efforts to enhance the capacity of governmental and nongovernmental entities to work toward the goal of eliminating the ability of al-Qaeda and its violent extremist affiliates to establish or maintain safe havens.

(2) CONTENTS OF GUIDANCE.—The guidance required under paragraph (1) shall include each of the following:

(A) A prioritized list of specified geographic areas that the President determines are necessary to address and an explicit discussion and list of the criteria or rationale used to prioritize the areas on the list, including a discussion of the conditions that would hamper the ability of the United States to strengthen at-risk states or other entities in such areas.

(B) For each specified geographic area, a description, analysis, and discussion of the core problems and contributing issues that allow or could allow al-Qaeda and its violent extremist affiliates to use the area as a safe haven from which to plan and launch attacks, engage in propaganda, or raise funds and other support, including any ongoing or potential radicalization of the population, or to use the area as a key transit route for personnel, weapons, funding, or other support.

(C) A list of short-term, mid-term, and long-term goals for each specified geographic area, prioritized by importance.

(D) A description of the role and mission of each Federal department and agency involved in executing the guidance, including the Departments of Defense, Justice, Treasury, and State and the Agency for International

Development.

(E) A description of gaps in United States capabilities to meet the goals listed pursuant to subparagraph (C), and the extent to which those gaps can be met through coordination with nongovernmental, international, or private sector organizations, entities, or companies.

(3) REVIEW AND UPDATE OF GUIDANCE.—The President shall review and update the guidance required under paragraph (1) as necessary. Any such review shall address each of the following:

(A) The overall progress made toward achieving the goals listed pursuant to paragraph (2)(C), including an overall assessment of the progress in denying a safe haven to al-Qaeda and its violent extremist affiliates.

(B) The performance of each Federal department and agency involved in executing the guidance.

(C) The performance of the unified country team and appropriate combatant command, or in the case of a crossborder effort, country teams in the area and the appropriate combatant command.

(D) Any addition to, deletion from, or change in the order of the prioritized list maintained pursuant to paragraph (2)(A).

(4) SPECIFIED GEOGRAPHIC AREA DEFINED.—In this subsection,

the term “specified geographic area” means any country, subnational territory, or region—

(A) that serves or may potentially serve as a safe haven for al-Qaeda or a violent extremist affiliate of al-Qaeda—

(i) from which to plan and launch attacks, engage in propaganda, or raise funds and other support; or

(ii) for use as a key transit route for personnel, weapons, funding, or other support; and

(B) over which one or more governments or entities exert insufficient governmental or security control to deny al-Qaeda and its violent extremist affiliates the ability to establish a large scale presence.

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[1] \*See annotation at the end of this act for additional reporting requirements, which are separately enumerated in the National Defense Authorization Act for Fiscal Year 2012.