

# STATEMENT OF BENJAMIN A. POWELL BEFORE THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

## **“The Lessons and Implications of the Christmas Day Attack: Intelligence Reform and Interagency Integration”**

**MARCH 17, 2010**

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### **Introduction**

I appreciate the opportunity to appear before the Committee to discuss intelligence reform and interagency integration. I am particularly honored to appear before this Committee given the historic role in intelligence reform played by this Committee, under the leadership of Senator Lieberman and Senator Collins, in the crafting of the most significant changes to the Intelligence Community (IC) since the enactment of the National Security Act of 1947.

I appear before the Committee in my personal capacity and the views I express are my own. None of the views expressed in this statement or in my discussions with the Committee should be understood in any way to reflect the views of my employer. This statement was reviewed by the government for classification purposes.

I have separately provided the Committee my biography. I have been involved in information sharing and data handling issues related to the IC going back to the late 1980s in work at the Federal Bureau of Investigation (FBI) and as an officer in the Air Force prior to becoming an attorney. I was involved in the formation and drafting of the various proposals for intelligence reform that ultimately resulted in the passage of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA). As an Associate Counsel to the President and Special Assistant to the President, I spent a significant amount of my time on intelligence transformation issues, reviewing and responding to the recommendations of the 9/11 Commission related to intelligence transformation, and assisting in the drafting and interagency coordination of directives related to the IC. Of course, the most significant change to the IC was the legislative direction contained in the IRTPA.

As General Counsel for the first three Directors of National Intelligence, I have seen the implementation of the IRTPA at the ground level. From my perspective, a substantial amount of the actual details of transformation – both good and bad – has been obscured at times by a fog of commentary not always grounded in law, fact, or actual experience. The work of transformation at its ground level is often in the less glamorous areas of policy directives, implementation of standards, and oversight to ensure there is actual implementation and measurement of the success or failure of policy changes. And while it can appear quite distant from the daily operational activity of the IC, the 9/11 attacks and subsequent events have made clear that this is work with real world consequences. The Christmas Day attack was another vivid example of the importance of an integrated IC. Neglect in building an integrated IC will have negative consequences for the Nation.

IC transformation is not a zero sum project. The goal is not to diminish the authorities or capabilities of one organization in favor of another organization, such as the DNI's office. The goal is to have an integrated IC that is more than the sum of its parts and has greater capabilities to confront serious global threats.

Support from this Committee, the Senate Select Committee on Intelligence, and senior congressional leaders for the efforts to build a more integrated and capable IC has been critical to the ability of the DNI and IC to implement the mandates of the IRTPA and other legislation. I hope that current and future leaders of the IC continue to receive support and leadership from the Congress on these issues.

### **DNI Leadership**

This Committee is well aware of the lengthy list of responsibilities given to the DNI to lead the IC and improve its operations. The IRTPA did not create a Department of Intelligence that combines all intelligence elements under a single leader with complete direction, control, and authority. Instead, for a number of reasons, the IRTPA created a structure of matrix management, providing the DNI with responsibilities and authorities in certain areas, while leaving other duties with heads of departments containing elements of the IC. An organization chart for the IC is attached at Annex 1.

Some observers have argued that the IRTPA is filled with ambiguity and a lack of clarity, leaving the DNI with an unclear mission and little authority to carry out the mandate of the IRTPA. I think that conclusion sweeps too broadly. The legislation is not free from ambiguity, but significant legislation often entails compromise and leaves areas unclear for further definition in implementation of the statute.

Section 102A of the National Security Act of 1947, as amended, provides a lengthy list of DNI responsibilities and authorities. Section 102A is codified at 50 U.S.C. § 403-1 and attached at Annex 3 to this statement. Certainly, the responsibilities are more clear than the authorities provided to meet the mandates contained in the legislation. Thus, the DNI's office spent significant amounts of time working with elements of the IC to interpret the IRTPA and determine how the DNI's authorities can be exercised to meet the DNI's assigned responsibilities. Many of these discussions, whether over information sharing, personnel policies, budget authority, collection priorities, or other areas, seemed to be less legal at their core and more in fact discussions of the policy, cultural, and organizational change issues created by the integration demanded by the Congress and President in the IRTPA.

One overlooked benefit of the creation of the DNI is the critical value in having a leader and an organization that was not connected to a particular agency and could serve as an "honest broker" over disputes or provide greater visibility at senior intelligence levels to serious problems impacting a single IC element. I saw significant interagency national security issues come before the DNI, senior officials, or the Executive Committee (EXCOM) for discussion and resolution. In addition, IC elements in individual departments may have significant intelligence challenges that do not receive adequate attention as they compete for attention with many other non-intelligence related issues facing a department head. The DNI could concentrate on these

intelligence issues and ensure they received appropriate attention in the DNI's office, the National Security Council, or other organizations.

The IRTPA omits some authorities that would provide greater control to the DNI. First, as Secretary Gates has pointed out, the DNI does not have hiring or firing authority for the heads of most of the elements of the IC. Recent examples outside the IC have shown the importance of a department head being able to exercise this blunt instrument when the department head has determined that a subordinate is pursuing a course different from the department head or not satisfactorily meeting expectations. Revisions to Executive Order 12333 went beyond the IRTPA in providing additional authority for the DNI in this area. Currently, the DNI is generally provided input into hiring and firing for most leaders of the IC, but must negotiate and work with other leaders to effect any leadership changes.

Second, the diverse nature of the IC, with a personnel mix that ranges from the uniformed military to CIA officers to FBI agents to State Department professionals, located in departments and agencies governed by a range of laws and regulations provides an especially difficult challenge to the implementation of uniform policies in areas such as information sharing and joint duty. The IRTPA mandated joint duty, increased information sharing, uniform security policies, and many other important standards and policies. But harmonizing these mandates with the laws and regulations governing these areas in each department required careful review and discussion with each department. For example, as discussed more below, joint duty policies took years to implement as the DNI's office worked with each department to determine how an IC-wide policy would impact their individual compensation, assignment, evaluation, and promotion system.

The IRTPA sets up a challenging matrix structure of shared control over the IC. As I discuss below, the DNI has made significant progress on many issues since 2004 and the current structure, for all its challenges, can pursue meaningful improvements for the security of the Nation. As Congress considers future legislation related to the DNI, it may find it useful to examine laws governing information sharing, privacy, personnel and other areas and determine the best way to harmonize these laws governing individual departments with the mandates of the IRTPA to create a more integrated IC. But the success of the DNI will not solely be determined by the clarity of the IRTPA or subsequent legislation.

The support of the President, his senior national security team, and the Congress is critical to building a unified national intelligence enterprise. I should note one "foundation" myth related to the former President's support that has become conventional wisdom, but is contrary to my experience. I have heard many people comment that former President Bush only accepted the IRTPA and the creation of the DNI because of the pending 2004 election. I am not aware of evidence to support this assertion. First, the fundamental fact is that the IRTPA was not passed in the House and Senate until December 2004, after the 2004 election, and not signed until December 17, 2004. The most difficult negotiations from my perspective took place also after the 2004 election. Second, I believe the President would not have personally become involved in urging passage of the legislation and working with the Congress after the 2004 election if the President did not support the legislation. Third, every interaction I had with former President Bush after the election indicated that he wanted the legislation and wanted a

strong DNI. And his actions in supporting the DNI after the enactment of IRTPA reflected his support for a strong DNI who vigorously exercised the DNI's authorities and brought greater integration to the IC. His support for and direct involvement in the revision of Executive Order 12333 is further evidence of his views on a strong DNI.

Fundamentally, the DNI will succeed if the President and the National Security Council, with the support of Congress, provide backing for the DNI's leadership of the IC and demand integration and transformation. Absent that support, transforming our IC into the integrated Community needed to deal with the current and future threats of the 21<sup>st</sup> Century will not happen.

This is not a new insight. The members of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction ("Silberman-Robb Commission") – members with many decades of national security experience – made this point in its submission to former President Bush in 2005, where they stated:

**Give the DNI powers--and backing--to match his responsibilities.**

In your public statement accompanying the announcement of Ambassador Negroponte's nomination as Director of National Intelligence (DNI), you have already moved in this direction. The new intelligence law makes the DNI responsible for integrating the 15 [now 16] independent members of the Intelligence Community. But it gives him powers that are only relatively broader than before. The DNI cannot make this work unless he takes his legal authorities over budget, programs, personnel, and priorities to the limit. It won't be easy to provide this leadership to the intelligence components of the Defense Department, or to the CIA. They are some of the government's most headstrong agencies. Sooner or later, they will try to run around---or over---the DNI. Then, only your determined backing will convince them that we cannot return to the old ways.

Transmittal Letter from Silberman-Robb Commission to the President (March 31, 2005) at p. 2, *available at* [http://www.gpoaccess.gov/wmd/pdf/full\\_wmd\\_report.pdf](http://www.gpoaccess.gov/wmd/pdf/full_wmd_report.pdf). The Commission consisted of: Charles Robb, Judge Laurence Silberman, Richard Levin, Sen. John McCain, Henry Rowen, Walter Slocombe, Admiral William Studeman, Charles Vest, Judge Patricia Wald, Lloyd Cutler (of counsel), and Vice Admiral John Scott Redd (Executive Director). The same points were forcefully made by former Congressman Lee Hamilton and former Governor Tom Kean in testimony before this Committee on January 26, 2010, where they stated:

Is the DNI a strong leader of the intelligence community empowered to lead the IC as an enterprise? Or is the DNI a mere coordinator, a convening authority charged with helping facilitate common inter-intelligence agency agreement? The lack of settled clarity on its mission invites a host of other criticisms, including that the ODNI is too large, too intrusive, and too operational.

The burden is on the President to be clear on who is in charge of the Intelligence Community and where final authority lies on budget, personnel, and other matters. In our estimation, we need a strong DNI who is a leader of the intelligence community. The

DNI must be the person who drives inter-agency coordination and integration. At the same time, the DNI's authorities must be exercised with discretion and consideration of the priorities and sensitivities of other intelligence agencies. But the President's leadership is crucial and must be continuing or we run the risk of mission confusion and decrease the prospect of long and lasting reform that was recommended after September 11, 2001. The DNI's ability to lead the Intelligence Community depends on the President defining his role and giving him the power and authority to act.

Hearing on Intelligence Reform: The Lessons and Implications of the Christmas Day Attack, Part II Before the S. Homeland Sec. Comm., 111th Cong. (2010) (statement of Congressman Lee Hamilton and Governor Tom Kean) at p. 5, *available at* [http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=756c2ecd-328f-4efd-849e-27ce8f348acd](http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=756c2ecd-328f-4efd-849e-27ce8f348acd) (emphasis in original). Presidential-level support, combined with support from the President's national security team, is needed to continue with ensuring our IC is ready to confront the global threats facing the country now and in the future.

### **Integration and Transformation**

The DNI structure has been challenged over its mission, size, and roles from even before the enactment of the IRTPA. A significant part of this discussion may result from continued dissatisfaction with the IRTPA, and not particular initiatives pursued by the DNI. There is no doubt that changing the prior Director of Central Intelligence structure and creating a DNI with a full-time mission of overseeing the IC and a mandate to bring greater integration across the IC was a seismic shift. Change of this magnitude takes many years to fully implement and remains a work in progress. A debate over structure is quite appropriate and the IRTPA can always be reconsidered by Congress and the President. However, using such a debate to hobble needed progress on intelligence reform within the current structure is corrosive to the IC mission and needed progress on transformation.

The DNI has exercised authority in many areas with varying levels of success over the past five years. As I mentioned before, critical work on many of these initiatives was also done by other departments and agencies. The DNI was not acting alone on these initiatives. However, the DNI's office was frequently a necessary leader or participant in initiatives that required teamwork across the IC. Some of the larger initiatives included:

- Working with Congress to enact fundamental change to the Foreign Intelligence Surveillance Act of 1978 (FISA) to modernize FISA and significantly improve our foreign intelligence collection activities.
- Supporting the standup of the National Counterterrorism Center (NCTC) and its ability to access relevant information across the government.
- Implementation of Joint Duty.

- Working with the President to update Executive Order 12333, the foundational Executive Order governing the IC, to clarify and align DNI and IC authorities and reflect the many changes in the IC since the order was signed in 1981.
- Security clearance reform
- Deployment of technologies in innovative ways such as the Analytic Space (A-Space), Intellipedia, and other information technology systems.
- Critical work in the cyber area that culminated in the Comprehensive National Cybersecurity Initiative (CNCI).

There are many other important areas where the DNI exercised authorities including reprogramming of funds to deal with higher priority issues, identifying gaps in our understanding of threats to the Nation, setting collection and analysis priorities, and supporting the mission and support activities for the IC. I also omit important classified work that consumed significant resources and time of senior officials from the DNI's office.

Some observers have claimed that the IRTPA and the DNI's subsequent implementation merely added a "new layer of bureaucracy" and accomplished little. That does not reflect the reality of the past five years.

For example, deficiencies in FISA were known since at least 1990. Many reasons account for a failure to confront defects in the statute that put the Nation at risk and became worse with greater changes in communication technology. Without a DNI working this issue night and day, and providing the strong push to seek legislative change, FISA legislation would not have been enacted, serious collection gaps would remain (and would have worsened), and the Nation would face greater risk.

The pre-IRTPA structure did not have a single person who could have committed the resources or the level of individual commitment to getting such a significant change enacted into law. Indeed, we can only speculate as to how history would have changed if a DNI existed in 2001 or in earlier years. As with all these initiatives, the DNI's office depended on the support from leaders and professionals across the IC and other departments and the Congress. The DNI's office was not sufficient alone to get the changes enacted, but it was necessary, as were the other participants, for the ultimate outcome.

The DNI received some criticism for its involvement in asking for legislative changes to improve IC operations. I firmly believe that the IRTPA mandates that the DNI put forth suggestions for change when the DNI identifies an inadequacy in existing law. Also, an additional advantage of having a DNI leading the IC was that IC element heads were more insulated from the public controversy surrounding the FISA legislation, and the political nature of the debate at times, and could concentrate on their important operational day-to-day work of running their agencies.

NCTC has been the subject of recent hearings of this Committee and I will only discuss NCTC briefly. NCTC has "collocate[d] more than 30 intelligence, military, law enforcement and homeland security networks under one roof to facilitate robust information sharing" and has access to a variety of databases. See National Counterterrorism Center: About Us, [http://www.nctc.gov/about\\_us/about\\_nctc.html](http://www.nctc.gov/about_us/about_nctc.html) (last visited Mar. 15, 2010). Gaining access to information sources across the government is a detailed task requiring that personnel work through a web of laws, regulations, and guidelines governing the use and distribution of each particular type of information. Without the DNI structure, I am unsure where a NCTC organization could effectively reside or find the support to work through information sharing challenges. Because of its organizational location apart from particular operational elements, NCTC sits in a unique position apart from individual IC elements and is able to access a broader variety of information. The legal, policy, and other issues created by locating NCTC in an element of the IC would be very complex and probably unworkable without significant legal and organizational changes.

Joint duty is critical and its implementation will be a long-term project. See Intelligence Community Directive No. 601, Human Capital Joint Intelligence Community Duty Assignments (May 16, 2006) and Intelligence Community Policy Guidance 601.1, Civilian Joint Duty Program Implementing Instructions (As Amended Sept. 4, 2009), *available at* [http://www.dni.gov/electronic\\_reading\\_room.htm](http://www.dni.gov/electronic_reading_room.htm). The signing of the Joint Duty Directive and its accompanying implementation guidance took years and is a practical example of many of the issues discussed in this statement. First, the DNI's office needed to gain an understanding of the wide variety of personnel systems both within IC elements and across departments. This knowledge was not sitting on a shelf in any particular agency. Second, the DNI could not just sign a directive implementing joint duty. Signing a directive without extensive discussions with the IC elements and departments would have been both unwise and resulted in a policy that would likely be ignored. The discussions and negotiations over joint duty were not the result of resistance in the IC to the idea of joint duty or a desire to avoid the legislative mandate. IC elements wanted to ensure their particular evaluation, assignment, promotion, pay, and other personnel processes could be harmonized with an IC-wide personnel policy. We also had to work through issues related to legal authorities and how they would apply in practice to items such as the granting of exemptions of positions from joint duty requirements, designation of joint duty positions, tracking of promotion rates, and waivers of joint duty requirements for individuals. Smaller elements of the IC had to determine how to incorporate new personnel policies and processes relating to a single office in a much larger department that was not adopting those policies and processes, without creating unworkable internal inconsistencies. This is just a few of the issues that the DNI's office and the IC needed to work through on this policy.

Joint duty is an example of the investment of time and effort required to formulate and implement workable policies in the IC's structure of matrix management. This effort required dedicated personnel in the DNI's office working through issues with the agencies, large data collection efforts, coordination with sixteen IC elements, and obtaining agreement across the senior leaders of the IC. I have strong doubts that the pre-IRTPA structure could have produced an IC-wide initiative of this scope and complexity. The joint duty experience does suggest that

future legislation related to the DNI should consider how the responsibilities assigned to the DNI will interact with other laws and regulations governing the various IC elements and their respective departments.

Many other initiatives were pursued since the passage of IRTPA. Executive Order 12333 required modification for many years. A number of past attempts to update the Executive Order were unsuccessful. The DNI was able to make revision of this Executive Order a priority and identify deficiencies in the existing Order. Significant parts of the Order parallel the mandates contained in IRTPA, but there are important provisions in the Order enhancing the DNI's authority, clarifying roles between the agencies (particularly in the domestic and foreign spheres of operation), and aligning the missions of IC elements. The amended Executive Order 12333 is attached at Annex 4.

Security clearance reform has been the subject of much discussion and dissatisfaction for decades. This area has been a particular focus of this Committee's Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia under the leadership of Senator Akaka and Senator Voinovich. The cost and delays present in the process impose a large cost on the IC. In response to the mandates contained in the IRTPA, the DNI used his authorities to join with the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), the Department of Defense (DoD), and other agencies to carry out pilot projects and explore the use of technology to bring down the cost and timeframes associated with clearances. This must be done very carefully because of counterintelligence issues, but significant progress continues to be made in this area. In November 2005, Top Secret investigations took an average of 314 days to complete with only 8 percent being completed within 90 days. I understand that currently, 90 percent are completed within an average of 91 days. In November 2005, Secret and Confidential investigations took an average of 153 days, with just 44 percent completed within 90 days. I understand that currently 90 percent are completed within 49 days. I also understand that the decades-old backlog of investigations, which as recently as October 2006 stood at almost 100,000 cases, has been eliminated. In addition, I understand that the government, with an IC-led effort, believes it will substantially reach its goal by December 2010 of having an end-to-end e-service security clearance process in partnership with OMB, OPM, and DoD that will lead to US Government-wide benefits.

The deployment under the DNI's guidance of A-Space and other collaborative tools are innovative technologies that significantly improve the analytical capability of the IC. They also threaten old ways of doing business that unnecessarily prevent collaboration and will challenge unneeded bureaucratic policies. The IC is a young workforce familiar with social networking and other tools. These technologies will facilitate collaboration across organizational boundaries and will challenge existing organizational structures. On balance, that is a positive development for the Community, but the DNI's analytic and counterintelligence team will need to monitor these efforts to ensure accurate information is the end result of the collaboration and security is not compromised. The differing legal regimes governing the sharing of information may also prevent the full use of these technologies and present unanticipated challenges in implementation.



Without the DNI's office, the Nation would not have a CNCI and be less prepared for the cyber threat that Director Blair recently discussed in testimony to Congress. Much of the discussion in the Administration and Congress to address cyber threats was a direct result of the intense focus on the issue by the DNI organization.

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My purpose in this brief and necessarily incomplete discussion of DNI initiatives is an attempt to bring greater clarity to the discussion of the mission of the DNI and the associated responsibilities and authorities. There are ample grounds for debate as to the proper policies and operations of the IC in all of these areas, from personnel policy to operational roles to required legislation. There is opposition to FISA reform, there was significant criticism of the formation of NCTC, and virtually every other initiative of any significance has been the subject of much constructive criticism. But instead of fairly meaningless charges of "another layer of bureaucracy," I would hope the questions would focus on substance, such as:

- Are these IC initiatives useful efforts? Which initiatives should be pursued and how? Do they make the IC better integrated and ultimately produce better intelligence?
- Who should pursue these initiatives? If a dedicated DNI staff is not the proper place or structure, what structure should pursue these initiatives and what is the feasibility of that structure and staffing?
- Historically, how did alternative structures perform? Did they produce the needed integration and transformation of the IC?

Depending on the answers to these questions, the Administration and Congress can work with the DNI to determine the best allocation of time and resources. If there is a better structure to create an integrated, agile, and capable IC for the 21<sup>st</sup> Century, I would hope that such a structure will be pursued with the greatest urgency.

### **Size of DNI Office**

Director Blair has talked about the DNI's responsibilities for guiding a "200,000 person, \$75 billion national enterprise in intelligence, whose job is to help our policymakers, to support our troops and diplomats in the field and to build better tools and a better workforce so that we can do the job even better in the future." Media Conference Call with the Director of National Intelligence, Mr. Dennis C. Blair (Sept. 15, 2009), [http://www.dni.gov/interviews/20090915\\_interview.pdf](http://www.dni.gov/interviews/20090915_interview.pdf). Given the effort spent on the charges and counter-charges concerning the size of the DNI over the years, I would be remiss if I did not discuss this issue. Significant parts of the criticism may be based on fundamental disagreement with the creation of the DNI and a dedicated staff performing oversight and policy functions IC-wide. They may also reflect disagreements with the manner in which the DNI's office carries out its functions.

First, some facts about the size of the core DNI staff. This core staff consists of individuals carrying out, among other tasks, the DNI's responsibilities to oversee the budget, develop policies, plans, and requirements, oversee acquisition and technology issues, and oversee analytical and collection efforts. In addition, there are functions related to human capital initiatives, a legislative office that in the first 12 months of the DNI's standup supported approximately 660 congressional briefings and meetings with Congress and appearances by the DNI's office at 43 hearings before 13 congressional committees, Chief Information Officer functions, Civil Liberties and Protection, General Counsel, Inspector General, and other functions. *See* Remarks to the ABA Standing Committee on Law and National Security (June 22, 2006), [http://www.dni.gov/speeches/printer\\_friendly/20060622\\_speech\\_print.htm](http://www.dni.gov/speeches/printer_friendly/20060622_speech_print.htm). A number of these functions were mandated by the IRTPA and in fact substantial portions of the staff consist of individuals transferred into the DNI's office pursuant to the IRTPA. In addition, there are the support functions that are required of any agency of the government, ranging from responding to Freedom of Information Act (FOIA) requests to EEO to infrastructure issues.

As of January 2009, Director McConnell spoke about a core group of intelligence professionals of 650. *See* Media Roundtable with Mr. Mike McConnell, Director of National Intelligence (Jan. 16, 2009), [http://www.dni.gov/interviews/20090116\\_interview.pdf](http://www.dni.gov/interviews/20090116_interview.pdf). As he noted in his discussion, the larger numbers often used to describe the size of the staff include the centers and other support activities for the IC as detailed on Annex 2. For example, NCTC "is staffed by more than 500 personnel from more than 16 departments and agencies (approximately 60 percent of whom are detailed to NCTC)." *See* National Counterterrorism Center: About Us, [http://www.nctc.gov/about\\_us/about\\_nctc.html](http://www.nctc.gov/about_us/about_nctc.html) (last visited Mar. 15, 2010).

Under any method of calculation, the DNI is a very small proportion of the entire IC population. I understand that the IC is managed with a staff smaller than staffs of DOD's regional combatant commands or, as Director Negroponte has pointed out, the U.S. embassies in the Philippines, Mexico, or Iraq. (I am not including contractors in these numbers as I am not aware of unclassified figures concerning contractors.)

Second, the DNI is given a lengthy list of mandates and responsibilities in IRTPA, subsequent legislation, and Executive Order 12333. *See, e.g.,* Annexes 3 and 4. If those responsibilities are unnecessary or properly belong elsewhere, then those responsibilities, along with staff, should be changed and removed from the DNI's already lengthy "to do" list. I have also heard claims that the DNI was not what was "envisioned" or its "growth" was too rapid (despite the fact that such growth was often the result of the transfer of pre-existing staff and functions to the DNI). At the same time, the DNI was often criticized for not improving information sharing fast enough, not fixing acquisition issues quicker, and a host of other open action items.

Those who work in the DNI's office are working according to what the law states in the IRTPA, subsequent legislation, and Executive Order 12333. When those responsibilities are matched up against the needed staffing, I do not think the size of the DNI seems significantly out of proportion. Some have suggested that perhaps the DNI could just order a lead agency to carry out his responsibilities and therefore have little staff. I do not think such a process would be practical or have a realistic chance of success given concerns that the lead agency may "tilt" the

playing field to their advantage or the lead agency may have other immediate priorities that overshadow its IC responsibilities.

Third, perhaps the proper size of the staff is larger or smaller than the 650 persons that Director McConnell discussed in January 2009. I am sure, as with most organizations in government, that there are many efficiencies and improvements in staffing that require examination. The DNI's office has not been perfect in its staffing or in every interaction with the IC or other departments and agencies. But the debate of whether the right number of personnel is 475, 592, 725 or some other number pales in significance next to the questions concerning information sharing, collection requirements, multi-billion dollar acquisition program oversight, analytical excellence, and a host of other issues on the DNI's list of responsibilities. And of course, the delta in terms of numbers is insignificant compared to the amount of time and effort spent on this issue.

Finally, the fact is the DNI cannot issue directives and walk away expecting that they will be carried out. The structure set up by IRTPA demands extensive interagency consultation and careful crafting of IC-wide policies. The DNI must monitor implementation and results, particularly in a matrix management structure where bureaucratic drift is all but inevitable.

Ultimately, much of the debate over the DNI may reflect fundamental disagreement with a strong DNI or a different vision of a DNI with little power to develop complex policies and oversee their implementation. Given the size and budget of the IC, it is difficult to see a radically different staffing situation without fundamental changes to the responsibilities or operation of the DNI.

### **Conclusion**

Implementation of the matrix management structure created by IRTPA has presented numerous challenges. But failing to act on intelligence transformation was unacceptable and pursuing alternative structures would have also led to significant challenges. Significant progress has been made through the exercise of DNI's authorities. Many tasks remain undone and progress on building an integrated, innovative, and more effective IC is likely to be uneven in the coming years. Continued attention on these issues and support for the effort from the President, the Congress, and senior national security officials is vital if the DNI is to successfully lead the IC in the 21<sup>st</sup> Century.

## **ANNEX 1**

# **Elements of the U.S. Intelligence Community**

# U.S. INTELLIGENCE COMMUNITY

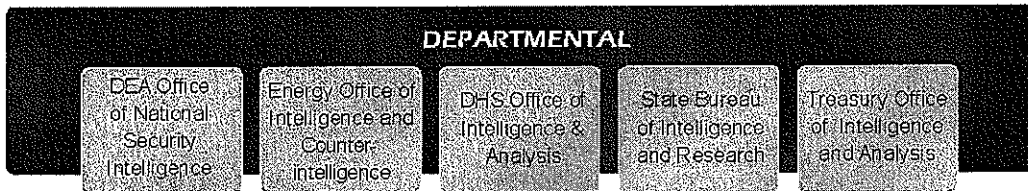


## OFFICE OF THE DIRECTOR OF THE NATIONAL INTELLIGENCE

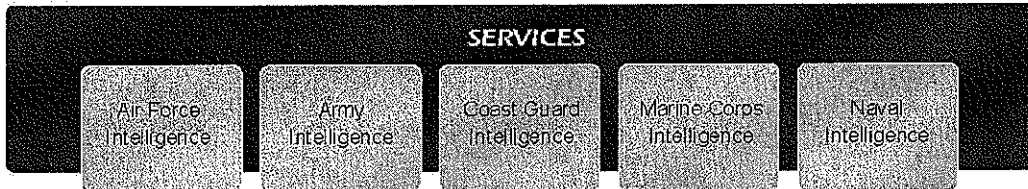
### PROGRAM MANAGERS



### DEPARTMENTAL



### SERVICES



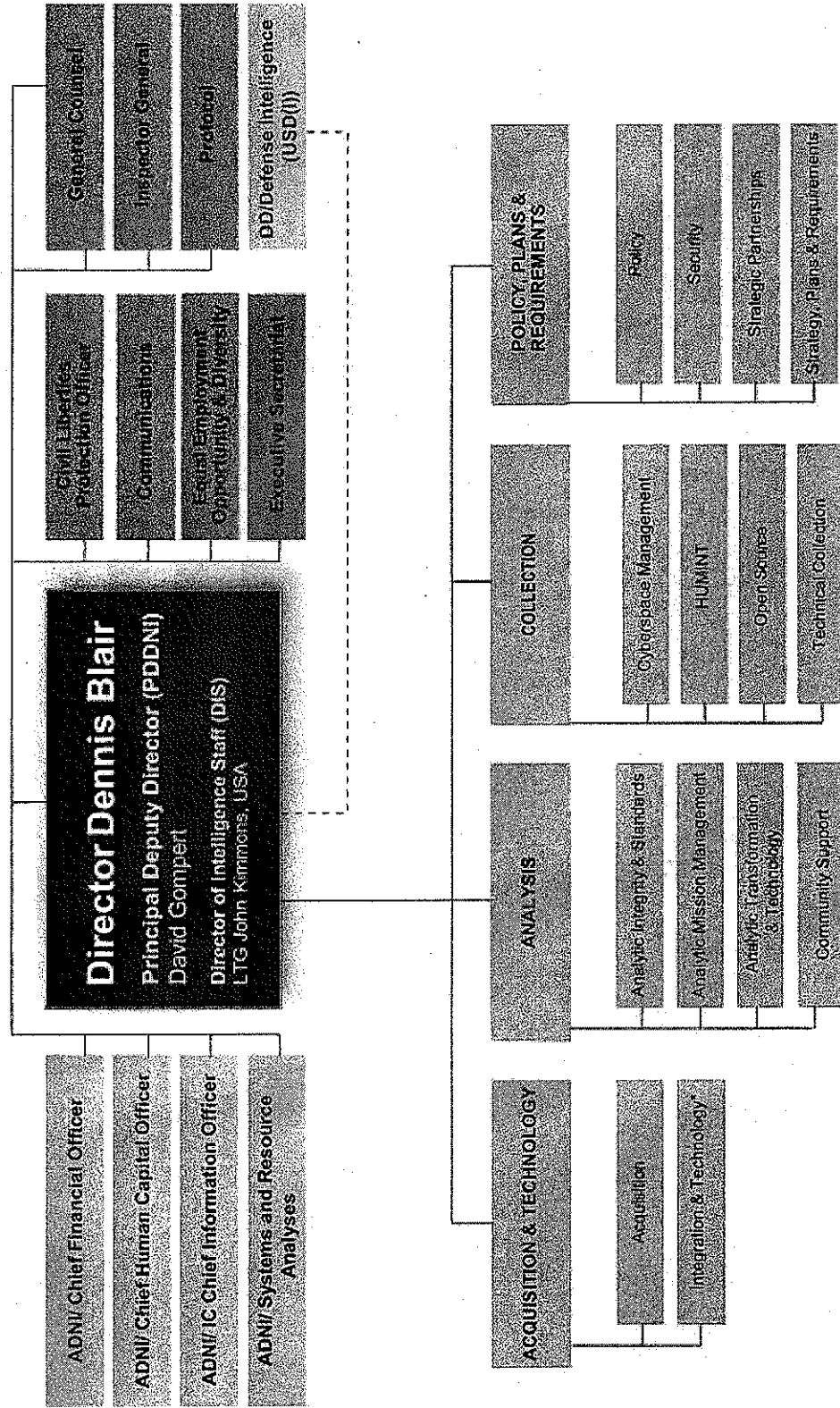
**ANNEX 2**

**Organizational Chart**

**Office of the Director of National  
Intelligence**



# OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE DNI STAFF



\* This DDNI also serves as the Director of Science & Technology



## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE MISSION AND SUPPORT ACTIVITIES FOR THE IC

### BUSINESS TRANSFORMATION OFFICE (BTO)

Catalyst for transforming the IC into an efficient and effective Intelligence Enterprise with standardized common business practices, including human resources and financial management processes. *Established under the DNI in October 2008.*

### CENTER FOR SECURITY EVALUATION

Joint State Dept./DNI office protecting intelligence sources and methods information at US diplomatic facilities abroad. *Established in 1988 as a DCI Center. Realigned under the DNI in April 2005.*

### INFORMATION SHARING ENVIRONMENT

Establishes a trusted partnership and culture of information sharing between federal departments and agencies and state, local and tribal governments, the private sector, and foreign partners to ensure multi-directional sharing of information. *Established in 2005 in accordance with IRTPA. Realigned under the DNI in 2007.*

### INTELLIGENCE ADVANCED RESEARCH PROJECTS ACTIVITY (IARPA)

Invests in high-risk/high-payoff research that has the potential to provide our nation with an overwhelming intelligence advantage over future adversaries. *Established in 2007 with existing components from NSA and CIA.*

### INTELLIGENCE TODAY OFFICE

Produces a single centralized website allowing customers to access the IC's most timely analytic insights in support of key national security decisions. Designed specifically for senior policymakers who do not receive the PDB. *Established under the DNI in 2009.*

### MISSION SUPPORT CENTER

Provides centralized administrative support for ODNI Mission & Support activities, including infrastructure and personnel support services. *Established under the DNI in 2008.*

### MISSION MANAGEMENT TEAMS (COUNTRY SPECIFIC)

Integrates all collection and analysis on priority intelligence topics across IC. Teams include Iran, North Korea, Cuba/Venezuela, and Afghanistan/Pakistan. *Created in November 2005 upon recommendation by the WMD Commission in its 2005 report. Af-Pak team added in 2009.*

### NATIONAL INTELLIGENCE UNIVERSITY (NIU)

Oversees and integrates IC education and training, including foreign language training and policy. *Established in 2005 under the DNI.*

### NATIONAL COUNTERTERRORISM CENTER (NCTC)

Nation's primary organization for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism. *Previously the Terrorist Threat Integration Center (TTIC), which was managed by the DCI and began operations in May 2003. Realigned under the DNI as NCTC in 2005.*

### NATIONAL COUNTERINTELLIGENCE EXECUTIVE (NCIX)

Head of national counterintelligence for the US Government. Provides a counterintelligence (CI) perspective in all IC support to policy makers and departments and agencies outside the IC. *Created in 2001 under the DCI. Realigned under the DNI in April 2005 in accordance with IRTPA.*

### NATIONAL COUNTERPROLIFERATION CENTER (NCPC)

IC center for all US Government efforts to discourage, eliminate or counter current and future threats from biological, chemical, nuclear, and radiological weapons. *Created under the DNI in November 2005 as recommended by the WMD Commission in 2005.*

### NATIONAL INTELLIGENCE COORDINATION CENTER (NIC-C)

Nation's primary mechanism for the coordination, assessment, and efficient utilization of the total array of U.S. Intelligence collection capabilities and resources. Co-located with the Defense Intelligence Operation Coordination Center. *Established in 2007.*

### NATIONAL INTELLIGENCE COUNCIL (NIC)

Leads and coordinates analysis across the IC, represents IC analytic views to the policy community, and directs National Intelligence Estimates and other mid-term and long-term strategic analyses. *Formed under the DCI in 1979. Realigned under the DNI in 2005.*

### PRESIDENT'S DAILY BRIEFING (PDB) STAFF

Manages the production and delivery of daily intelligence presentations for the President and select administration seniors. *The most recent of several formats and names since the Truman era. The creation of the ODNI moved senior authority for this presidential support from CIA to DNI in 2005.*

### SPECIAL SECURITY CENTER

Leads security clearance transformation and assists the DNI in sharing and protecting national intelligence information, creating standard security procedures and managing controlled access programs. *Previously the Director's Special Security Center under the DCI. Realigned under the DNI in 2005.*



## **ANNEX 3**

# **Section 102A of the National Security Act of 1947**

**Codified at 50 U.S.C. § 403-1**

- "(1) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives; and
- "(2) the Select Committee on Intelligence and the Committee on Armed Services of the Senate."

**CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
DISABILITY SYSTEM**

Pub. L. 88-643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90-539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91-185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91-626, §§ 1-6, Dec. 31, 1970, 84 Stat. 1872-1874; Pub. L. 93-31, May 8, 1973, 87 Stat. 65; Pub. L. 93-210, § 1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94-361, title VIII, § 801(b), July 14, 1976, 90 Stat. 929; Pub. L. 94-522, title I, §§ 101, 102, title II, §§ 201-213, Oct. 17, 1976, 90 Stat. 2467-2471; Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854; Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889; Pub. L. 97-269, title VI, §§ 602-611, Sept. 27, 1982, 96 Stat. 1145-1148, 1152-1153; Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751; Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827; Pub. L. 98-618, title III, § 302, Nov. 8, 1984, 98 Stat. 3300; Pub. L. 99-169, title VII, § 702, Dec. 4, 1985, 99 Stat. 1008; Pub. L. 99-335, title V, §§ 501-506, June 6, 1986, 100 Stat. 622-624; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-569, title III, § 302(a), Oct. 27, 1986, 100 Stat. 3192; Pub. L. 100-178, title IV, §§ 401(a), 402(a), (b)(1), (2), Dec. 2, 1987, 101 Stat. 1012-1014; Pub. L. 100-453, title III, § 302(a), (b)(1), (c)(1), (d)(1), (2), title V, § 502, Sept. 29, 1988, 102 Stat. 1906, 1907, 1909; Pub. L. 101-193, title III, §§ 302-304(a), 307(b), Nov. 30, 1989, 103 Stat. 1703, 1707; Pub. L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-88, title III, §§ 302-305(a), 306-307(b), Aug. 14, 1991, 105 Stat. 431-433; Pub. L. 102-183, title III, §§ 302(a)-(c), 303(a), 304-306(b), 307, 309(a), 310(a), Dec. 4, 1991, 105 Stat. 1262-1266; Pub. L. 102-496, title III, § 304(b), Oct. 24, 1992, 106 Stat. 3183, known as the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, was revised generally by Pub. L. 102-496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3196. As so revised, Pub. L. 88-643, now known as the Central Intelligence Agency Retirement Act, has been transferred to chapter 38 (§ 2001 et seq.) of this title. All notes, Executive orders, and other provisions relating to this Act have been transferred to section 2001 of this title.

**EXECUTIVE ORDER NO. 10656**

Ex. Ord. No. 10656, Feb. 6, 1956, 21 F.R. 859, which established the President's Board of Consultants on Foreign Intelligence Activities, was revoked by Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, formerly set out below.

**EXECUTIVE ORDER NO. 10938**

Ex. Ord. No. 10938, May 4, 1961, 26 F.R. 3951, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, formerly set out below.

**EXECUTIVE ORDER NO. 11460**

Ex. Ord. No. 11460, Mar. 20, 1969, 34 F.R. 5535, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, set out below.

**EX. ORD. NO. 11984. ABOLITION OF PRESIDENT'S FOREIGN  
INTELLIGENCE ADVISORY BOARD**

Ex. Ord. No. 11984, May 4, 1977, 42 F.R. 23129, provided: By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

JIMMY CARTER.

**EXECUTIVE ORDER NO. 12331**

Ex. Ord. No. 12331, Oct. 20, 1981, 46 F.R. 51705, which established the President's Foreign Intelligence Advisory

Board, was revoked by Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, formerly set out below.

**EXECUTIVE ORDER NO. 12537**

Ex. Ord. No. 12537, Oct. 28, 1985, 50 F.R. 45083, as amended by Ex. Ord. No. 12624, Jan. 6, 1988, 53 F.R. 489, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex. Ord. No. 12863, § 3.3, Sept. 13, 1993, 58 F.R. 48441, set out as a note under section 401 of this title.

**§ 403-1. Responsibilities and authorities of the  
Director of National Intelligence**

**(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 budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities.

(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 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 Joint Military Intelligence Program.

(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 to another such program.

(3) The Director of National Intelligence may only transfer or reprogram funds referred to in subparagraph (A)—<sup>1</sup>

(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 or personnel 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.

<sup>1</sup>So in original. Probably should be "paragraph (1)(A)—".

(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 or agency involved 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 December 17, 2004.

**(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 intel-

ligence 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) 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) of this section 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 121 and 482 of title 6.

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

(8) Nothing in this subchapter 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 3927 of title 22, 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 section.

(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 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) 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 and other provisions of that title.

**(m) Additional authority with respect to personnel**

(1) In addition to the authorities under subsection (f)(3) of this section, 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 December 17, 2004, 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 [50 U.S.C. 403a et seq.], and other applicable provisions of law, as of December 17, 2004.

**(n) Acquisition 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 [50 U.S.C. 403c(d)] 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.

**(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 403(9) of title 41.

**(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.

(July 26, 1947, ch. 343, title I, § 102A, as added Pub. L. 108-458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3644.)

**REFERENCES IN TEXT**

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (c)(6), is Pub. L.

93-344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (f)(6), (8), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

This subchapter, referred to in subsec. (f)(8), was in the original “this title”, meaning title I of act July 26, 1947, ch. 343, 61 Stat. 496, as amended, which is classified generally to this subchapter. For complete classification of title I to the Code, see Tables.

The Goldwater-Nichols Department of Defense Reorganization Act of 1986, referred to in subsec. (d)(3)(C), is Pub. L. 99-433, Oct. 1, 1986, 100 Stat. 992, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 111 of Title 10, Armed Forces, and Tables.

The Central Intelligence Agency Act of 1949, referred to in subsecs. (m) and (n)(1), is act June 20, 1949, ch. 227, 63 Stat. 208, as amended, which is classified generally to section 403a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 403a of this title and Tables.

**PRIOR PROVISIONS**

A prior section 403-1, act July 26, 1947, ch. 343, title I, § 102A, as added Pub. L. 104-293, title VIII, § 805(b), Oct. 11, 1996, 110 Stat. 3479, provided there is a Central Intelligence Agency and described its function prior to repeal by Pub. L. 108-458, title I, §§ 1011(a), 1097(a), Dec. 17, 2004, 118 Stat. 3643, 3698, effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided. See section 403-4 of this title.

Another prior section 403-1, act July 26, 1947, ch. 343, title I, § 102a, as added Dec. 9, 1983, Pub. L. 98-215, title IV, § 403, 97 Stat. 1477, related to appointment of Director of the Intelligence Community Staff prior to repeal by Pub. L. 102-496, title VII, § 705(a)(1), Oct. 24, 1992, 106 Stat. 3190.

**EFFECTIVE DATE**

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.

**JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY**

Pub. L. 108-458, title I, § 1013, Dec. 17, 2004, 118 Stat. 3662, provided that:

“(a) DEVELOPMENT OF PROCEDURES.—The Director of National Intelligence, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

“(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

“(A) information exchange between senior officials of the Central Intelligence Agency and senior



officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

"(B) exchange of information between the Secretary and the Director of the Central Intelligence Agency to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

"(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, a mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

"(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act [Dec. 17, 2004], the Director of National Intelligence shall submit to the congressional defense committees (as defined in section 101 of title 10, United States Code) and the congressional intelligence committees (as defined in section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7))) a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures."

#### ALTERNATIVE ANALYSIS OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY

Pub. L. 108-458, title I, §1017, Dec. 17, 2004, 118 Stat. 3670, provided that:

"(a) IN GENERAL.—Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108-458, see Effective Date of 2004 Amendment; Transition Provisions note set out under section 401 of this title], the Director of National Intelligence shall establish a process and assign an individual or entity the responsibility for ensuring that, as appropriate, elements of the intelligence community conduct alternative analysis (commonly referred to as 'red-team analysis') of the information and conclusions in intelligence products.

"(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives on the implementation of subsection (a)."

#### REQUIREMENT FOR EFFICIENT USE BY INTELLIGENCE COMMUNITY OF OPEN-SOURCE INTELLIGENCE

Pub. L. 108-458, title I, §1052(b), Dec. 17, 2004, 118 Stat. 3683, provided that: "The Director of National Intelligence shall ensure that the intelligence community makes efficient and effective use of open-source information and analysis."

#### ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS

Pub. L. 108-458, title VII, §7201(e), Dec. 17, 2004, 118 Stat. 3813, provided that:

"(1) IN GENERAL.—The Director of National Intelligence shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection."

#### INTELLIGENCE COMMUNITY USE OF NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

Pub. L. 108-458, title VIII, §8101, Dec. 17, 2004, 118 Stat. 3864, provided that:

"(a) IN GENERAL.—The Director of National Intelligence shall establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.

"(b) PURPOSE.—The purpose of the relationship under subsection (a) shall be to permit the intelligence community to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats."

#### PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY

Pub. L. 108-177, title III, §317, Dec. 13, 2003, 117 Stat. 2611, as amended by Pub. L. 108-458, title I, §§1071(g)(3)(A)(i), (ii), 1072(d)(2)(A), Dec. 17, 2004, 118 Stat. 3692, 3693, provided that:

"(a) IN GENERAL.—The Director of National Intelligence shall, in coordination with the Secretary of Defense, carry out a pilot program to assess the feasibility and advisability of permitting intelligence analysts of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).

"(b) COVERED INTELLIGENCE.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:

"(1) Signals intelligence of the National Security Agency.

"(2) Such intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program.

"(c) OBJECTIVES.—The objectives set forth in this subsection are as follows:

"(1) To enhance the capacity of the intelligence community to undertake 'all source fusion' analysis in support of the intelligence and intelligence-related missions of the intelligence community.

"(2) To reduce, to the extent possible, the amount of intelligence collected by the intelligence community that is not assessed, or reviewed, by intelligence analysts.

"(3) To reduce the burdens imposed on analytical personnel of the elements of the intelligence community by current practices regarding the sharing of intelligence among elements of the intelligence community.

"(d) COMMENCEMENT.—The Director shall commence the pilot program under subsection (a) not later than December 31, 2003.

"(e) VARIOUS MECHANISMS REQUIRED.—In carrying out the pilot program under subsection (a), the Director shall develop and utilize various mechanisms to facilitate the access to, and the analysis of, intelligence in the databases of the intelligence community by intelligence analysts of other elements of the intelligence community, including the use of so-called 'detailees in place'.

"(f) SECURITY.—(1) In carrying out the pilot program under subsection (a), the Director shall take appropriate actions to protect against the disclosure and unauthorized use of intelligence in the databases of the elements of the intelligence community which may endanger sources and methods which (as determined by the Director) warrant protection.

"(2) The actions taken under paragraph (1) shall include the provision of training on the accessing and handling of information in the databases of various elements of the intelligence community and the establishment of limitations on access to information in such databases regarding United States persons.

"(g) ASSESSMENT.—Not later than February 1, 2004, after the commencement under subsection (d) of the pilot program under subsection (a), the Under Secretary of Defense for Intelligence and the Deputy Director of National Intelligence shall jointly carry out an assessment of the progress of the pilot program in meeting the objectives set forth in subsection (c).

"(h) REPORT.—(1) The Director of National Intelligence shall, in coordination with the Secretary of Defense, submit to the appropriate committees of Con-

gress a report on the assessment carried out under subsection (g).

"(2) The report shall include—

"(A) a description of the pilot program under subsection (a);

"(B) the findings of the Under Secretary and Assistant Director [Deputy Director of National Intelligence] as a result of the assessment;

"(C) any recommendations regarding the pilot program that the Under Secretary and the Deputy Director of National Intelligence jointly consider appropriate in light of the assessment; and

"(D) any recommendations that the Director and Secretary consider appropriate for purposes of the report.

"(i) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

"(2) the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives."

#### STANDARDIZED TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET

Pub. L. 107-306, title III, § 352, Nov. 27, 2002, 116 Stat. 2401, as amended by Pub. L. 108-458, title I, § 1071(g)(2)(D), Dec. 17, 2004, 118 Stat. 3691, provided that:

"(a) METHOD OF TRANSLITERATION REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 27, 2002], the Director of Central Intelligence shall provide for a standardized method for transliterating into the Roman alphabet personal and place names originally rendered in any language that uses an alphabet other than the Roman alphabet.

"(b) USE BY INTELLIGENCE COMMUNITY.—The Director of National Intelligence shall ensure the use of the method established under subsection (a) in—

"(1) all communications among the elements of the intelligence community; and

"(2) all intelligence products of the intelligence community."

#### STANDARDS FOR SPELLING OF FOREIGN NAMES AND PLACES AND FOR USE OF GEOGRAPHIC COORDINATES

Pub. L. 105-107, title III, § 309, Nov. 20, 1997, 111 Stat. 2253, provided that:

"(a) SURVEY OF CURRENT STANDARDS.—

"(1) SURVEY.—The Director of Central Intelligence shall carry out a survey of current standards for the spelling of foreign names and places, and the use of geographic coordinates for such places, among the elements of the intelligence community.

"(2) REPORT.—Not later than 90 days after the date of enactment of this Act [Nov. 20, 1997], the Director shall submit to the congressional intelligence committees a report on the survey carried out under paragraph (1). The report shall be submitted in unclassified form, but may include a classified annex.

"(b) GUIDELINES.—

"(1) ISSUANCE.—Not later than 180 days after the date of enactment of this Act, the Director shall issue guidelines to ensure the use of uniform spelling of foreign names and places and the uniform use of geographic coordinates for such places. The guidelines shall apply to all intelligence reports, intelligence products, and intelligence databases prepared and utilized by the elements of the intelligence community.

"(2) BASIS.—The guidelines under paragraph (1) shall, to the maximum extent practicable, be based on current United States Government standards for the transliteration of foreign names, standards for foreign place names developed by the Board on Geographic Names, and a standard set of geographic coordinates.

"(3) SUBMITTAL TO CONGRESS.—The Director shall submit a copy of the guidelines to the congressional intelligence committees.

"(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means the following:

"(1) The Select Committee on Intelligence of the Senate.

"(2) The Permanent Select Committee on Intelligence of the House of Representatives."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.]

#### PERIODIC REPORTS ON EXPENDITURES

Pub. L. 104-293, § 807(c), Oct. 11, 1996, 110 Stat. 3480, provided that: "Not later than January 1, 1997, the Director of Central Intelligence and the Secretary of Defense shall prescribe guidelines to ensure prompt reporting to the Director and the Secretary on a periodic basis of budget execution data for all national, defense-wide, and tactical intelligence activities."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.]

#### DATABASE PROGRAM TRACKING

Pub. L. 104-293, title VIII, § 807(d), Oct. 11, 1996, 110 Stat. 3481, provided that: "Not later than January 1, 1999, the Director of Central Intelligence and the Secretary of Defense shall develop and implement a database to provide timely and accurate information on the amounts, purposes, and status of the resources, including periodic budget execution updates, for all national, defense-wide, and tactical intelligence activities."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.]

#### IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET

Pub. L. 103-359, title VI, § 603, Oct. 14, 1994, 108 Stat. 3433, provided that: "The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of Na-

tional Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of this title.]

**§ 403-1a. Assignment of responsibilities relating to analytic integrity**

**(a) Assignment of responsibilities**

For purposes of carrying out section 403-1(h) of this title, the Director of National Intelligence shall, not later than 180 days after December 17, 2004, assign an individual or entity to be responsible for ensuring that finished intelligence products produced by any element or elements of the intelligence community are timely, objective, independent of political considerations, based upon all sources of available intelligence, and employ the standards of proper analytic tradecraft.

**(b) Responsibilities**

(1) The individual or entity assigned responsibility under subsection (a) of this section—

(A) may be responsible for general oversight and management of analysis and production, but may not be directly responsible for, or involved in, the specific production of any finished intelligence product;

(B) shall perform, on a regular basis, detailed reviews of finished intelligence product or other analytic products by an element or elements of the intelligence community covering a particular topic or subject matter;

(C) shall be responsible for identifying on an annual basis functional or topical areas of analysis for specific review under subparagraph (B); and

(D) upon completion of any review under subparagraph (B), may draft lessons learned, identify best practices, or make recommendations for improvement to the analytic tradecraft employed in the production of the reviewed product or products.

(2) Each review under paragraph (1)(B) should—

(A) include whether the product or products concerned were based on all sources of available intelligence, properly describe the quality and reliability of underlying sources, properly caveat and express uncertainties or confidence in analytic judgments, properly distinguish between underlying intelligence and the assumptions and judgments of analysts, and incorporate, where appropriate, alternative analyses; and

(B) ensure that the analytic methodologies, tradecraft, and practices used by the element or elements concerned in the production of the product or products concerned meet the standards set forth in subsection (a) of this section.

(3) Information drafted under paragraph (1)(D) should, as appropriate, be included in analysis teaching modules and case studies for use throughout the intelligence community.

**(c) Annual reports**

Not later than December 1 each year, the Director of National Intelligence shall submit to

the congressional intelligence committees, the heads of the relevant elements of the intelligence community, and the heads of analytic training departments a report containing a description, and the associated findings, of each review under subsection (b)(1)(B) of this section during such year.

**(d) Congressional intelligence committees defined**

In this section, the term "congressional intelligence committees" means—

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

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

(Pub. L. 108-458, title I, §1019, Dec. 17, 2004, 118 Stat. 3671.)

**CODIFICATION**

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the National Security Intelligence Reform Act of 2004, and not as part of the National Security Act of 1947 which comprises this chapter.

**EFFECTIVE DATE**

For Determination by President that section take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of this title.

Section effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.

**SAFEGUARD OF OBJECTIVITY IN INTELLIGENCE ANALYSIS**

Pub. L. 108-458, title I, §1020, Dec. 17, 2004, 118 Stat. 3672, provided that:

"(a) IN GENERAL.—Not later than 180 days after the effective date of this Act [probably means the effective date of title I of Pub. L. 108-458, see Effective Date of 2004 Amendment; Transition Provisions note set out under section 401 of this title], the Director of National Intelligence shall identify an individual within the Office of the Director of National Intelligence who shall be available to analysts within the Office of the Director of National Intelligence to counsel, conduct arbitration, offer recommendations, and, as appropriate, initiate inquiries into real or perceived problems of analytic tradecraft or politicization, biased reporting, or lack of objectivity in intelligence analysis.

"(b) REPORT.—Not later than 270 days after the effective date of this Act, the Director of National Intelligence shall provide a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the implementation of subsection (a)."

**§ 403-1b. Additional education and training requirements**

**(a) Findings**

Congress makes the following findings:

(1) Foreign language education is essential for the development of a highly-skilled workforce for the intelligence community.

(2) Since September 11, 2001, the need for language proficiency levels to meet required national security functions has been raised, and the ability to comprehend and articulate technical and scientific information in foreign languages has become critical.

**(b) Linguistic requirements**

(1) The Director of National Intelligence shall—

## **ANNEX 4**

### **Executive Order 12333, as amended**

UNITED STATES INTELLIGENCE ACTIVITIES  
DECEMBER 4, 1981  
(AS AMENDED BY EXECUTIVE ORDERS 13284 (2003), 13355 (2004)  
AND 13470 (2008))

PREAMBLE

Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence possible. For that purpose, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including the National Security Act of 1947, as amended, (Act) and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

*PART 1 Goals, Directions, Duties, and Responsibilities with Respect to United States Intelligence Efforts*

1.1 *Goals.* The United States intelligence effort shall provide the President, the National Security Council, and the Homeland Security Council with the necessary information on which to base decisions concerning the development and conduct of foreign, defense, and economic policies, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) All means, consistent with applicable Federal law and this order, and with full consideration of the rights of

and shall continue in the conduct of intelligence activities under this order, to protect fully the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by Federal law.

(c) Intelligence collection under this order should be guided by the need for information to respond to intelligence priorities set by the President.

(d) Special emphasis should be given to detecting and countering:

- (1) Espionage and other threats and activities directed by foreign powers or their intelligence services against the United States and its interests;
- (2) Threats to the United States and its interests from terrorism; and
- (3) Threats to the United States and its interests from the development, possession, proliferation, or use of weapons of mass destruction.

(e) Special emphasis shall be given to the production of timely, accurate, and insightful reports, responsive to decisionmakers in the executive branch, that draw on all appropriate sources of information, including open source information, meet rigorous analytic standards, consider diverse analytic viewpoints, and accurately represent appropriate alternative views.

(f) State, local, and tribal governments are critical partners in securing and defending the United States from terrorism and other threats to the United States and its interests. Our national intelligence effort should take into

(g) All departments and agencies have a responsibility to prepare and to provide intelligence in a manner that allows the full and free exchange of information, consistent with applicable law and presidential guidance.

#### 1.2 *The National Security Council.*

(a) *Purpose.* The National Security Council (NSC) shall act as the highest ranking executive branch entity that provides support to the President for review of, guidance for, and direction to the conduct of all foreign intelligence, counterintelligence, and covert action, and attendant policies and programs.

(b) *Covert Action and Other Sensitive Intelligence Operations.* The NSC shall consider and submit to the President a policy recommendation, including all dissents, on each proposed covert action and conduct a periodic review of ongoing covert action activities, including an evaluation of the effectiveness and consistency with current national policy of such activities and consistency with applicable legal requirements. The NSC shall perform such other functions related to covert action as the President may direct, but shall not undertake the conduct of covert actions. The NSC shall also review proposals for other sensitive intelligence operations.

1.3 *Director of National Intelligence.* Subject to the authority, direction, and control of the President, the Director of National Intelligence (Director) shall serve as the head of the Intelligence Community, act as the principal adviser to the President, to the NSC, and to the Homeland Security Council for intelligence matters related to national security, and

shall, in carrying out the duties and responsibilities under this section, take into account the views of the heads of departments containing an element of the Intelligence Community and of the Director of the Central Intelligence Agency.

(a) Except as otherwise directed by the President or prohibited by law, the Director shall have access to all information and intelligence described in section 1.5(a) of this order. For the purpose of access to and sharing of information and intelligence, the Director:

(1) Is hereby assigned the function under section 3(5) of the Act, to determine that intelligence, regardless of the source from which derived and including information gathered within or outside the United States, pertains to more than one United States Government agency; and

(2) Shall develop guidelines for how information or intelligence is provided to or accessed by the Intelligence Community in accordance with section 1.5(a) of this order, and for how the information or intelligence may be used and shared by the Intelligence Community. All guidelines developed in accordance with this section shall be approved by the Attorney General and, where applicable, shall be consistent with guidelines issued pursuant to section 1016 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108-458) (IRTPA).

(b) In addition to fulfilling the obligations and responsibilities prescribed by the Act, the Director:

(1) Shall establish objectives, priorities, and guidance for the Intelligence Community to ensure timely and



heads of departments or Intelligence Community elements, one or more Intelligence Community elements to develop and to maintain services of common concern on behalf of the Intelligence Community if the Director determines such services can be more efficiently or effectively accomplished in a consolidated manner;

(3) Shall oversee and provide advice to the President and the NSC with respect to all ongoing and proposed covert action programs;

(4) In regard to the establishment and conduct of intelligence arrangements and agreements with foreign governments and international organizations:

(A) May enter into intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations;

(B) Shall formulate policies concerning intelligence and counterintelligence arrangements and agreements with foreign governments and international organizations; and

(C) Shall align and synchronize intelligence and counterintelligence foreign relationships among the elements of the Intelligence Community to further United States national security, policy, and intelligence objectives;

(5) Shall participate in the development of procedures approved by the Attorney General governing criminal drug intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(6) Shall establish common security and access standards for managing and handling intelligence systems,

assigning the highest priority to detecting, preventing, preempting, and disrupting terrorist threats and activities against the United States, its interests, and allies; and

(B) The establishment of standards for an interoperable information sharing enterprise that facilitates the sharing of intelligence information among elements of the Intelligence Community;

(7) Shall ensure that appropriate departments and agencies have access to intelligence and receive the support needed to perform independent analysis;

(8) Shall protect, and ensure that programs are developed to protect, intelligence sources, methods, and activities from unauthorized disclosure;

(9) Shall, after consultation with the heads of affected departments and agencies, establish guidelines for Intelligence Community elements for:

(A) Classification and declassification of all intelligence and intelligence-related information classified under the authority of the Director or the authority of the head of a department or Intelligence Community element; and

(B) Access to and dissemination of all intelligence and intelligence-related information, both in its final form and in the form when initially gathered, to include intelligence originally classified by the head of a department or Intelligence Community element, except that access to and dissemination of information concerning United States persons shall be governed by procedures developed in accordance with Part 2 of this order;

declassification of, information or intelligence relating to intelligence sources, methods, and activities. The Director may only delegate this authority to the Principal Deputy Director of National Intelligence;

(11) May establish, operate, and direct one or more national intelligence centers to address intelligence priorities;

(12) May establish Functional Managers and Mission Managers, and designate officers or employees of the United States to serve in these positions.

(A) Functional Managers shall report to the Director concerning the execution of their duties as Functional Managers, and may be charged with developing and implementing strategic guidance, policies, and procedures for activities related to a specific intelligence discipline or set of intelligence activities; set training and tradecraft standards; and ensure coordination within and across intelligence disciplines and Intelligence Community elements and with related non-intelligence activities. Functional Managers may also advise the Director on: the management of resources; policies and procedures; collection capabilities and gaps; processing and dissemination of intelligence; technical architectures; and other issues or activities determined by the Director.

(i) The Director of the National Security Agency is designated the Functional Manager for signals intelligence;

(ii) The Director of the Central Intelligence Agency is designated the Functional Manager for

(B) Mission Managers shall serve as principal substantive advisors on all or specified aspects of intelligence related to designated countries, regions, topics, or functional issues;

(13) Shall establish uniform criteria for the determination of relative priorities for the transmission of critical foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such communications;

(14) Shall have ultimate responsibility for production and dissemination of intelligence produced by the Intelligence Community and authority to levy analytic tasks on intelligence production organizations within the Intelligence Community, in consultation with the heads of the Intelligence Community elements concerned;

(15) May establish advisory groups for the purpose of obtaining advice from within the Intelligence Community to carry out the Director's responsibilities, to include Intelligence Community executive management committees composed of senior Intelligence Community leaders. Advisory groups shall consist of representatives from elements of the Intelligence Community, as designated by the Director, or other executive branch departments, agencies, and offices, as appropriate;

(16) Shall ensure the timely exploitation and dissemination of data gathered by national intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government elements,

elements of the Intelligence Community, including approving requirements for collection and analysis and resolving conflicts in collection requirements and in the tasking of national collection assets of Intelligence Community elements (except when otherwise directed by the President or when the Secretary of Defense exercises collection tasking authority under plans and arrangements approved by the Secretary of Defense and the Director);

(18) May provide advisory tasking concerning collection and analysis of information or intelligence relevant to national intelligence or national security to departments, agencies, and establishments of the United States Government that are not elements of the Intelligence Community; and shall establish

procedures, in consultation with affected heads of departments or agencies and subject to approval by the Attorney General, to implement this authority and to monitor or evaluate the responsiveness of United States Government departments, agencies, and other establishments;

(19) Shall fulfill the responsibilities in section 1.3(b)(17) and (18) of this order, consistent with applicable law and with full consideration of the rights of United States persons, whether information is to be collected inside or outside the United States;

(20) Shall ensure, through appropriate policies and procedures, the deconfliction, coordination, and integration of all intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence

human-enabled means and counterintelligence activities inside the United States;

(B) The Director of the Central Intelligence Agency shall coordinate the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities outside the United States;

(C) All policies and procedures for the coordination of counterintelligence activities and the clandestine collection of foreign intelligence inside the United States shall be subject to the approval of the Attorney General; and

(D) All policies and procedures developed under this section shall be coordinated with the heads of affected departments and Intelligence Community elements;

(21) Shall, with the concurrence of the heads of affected departments and agencies, establish joint procedures to deconflict, coordinate, and synchronize intelligence activities conducted by an Intelligence Community element or funded by the National Intelligence Program, with intelligence activities, activities that involve foreign intelligence and security services, or activities that involve the use of clandestine methods, conducted by other United States Government departments, agencies, and establishments;

(22) Shall, in coordination with the heads of departments containing elements of the Intelligence Community, develop procedures to govern major system acquisitions funded in whole or in majority part by the National Intelligence Program;

activities are conducted in a manner consistent with the responsibilities pursuant to law and presidential direction of Chiefs of United States Missions; and

(24) Shall facilitate the use of Intelligence Community products by the Congress in a secure manner.

(c) The Director's exercise of authorities in the Act and this order shall not abrogate the statutory or other responsibilities of the heads of departments of the United States Government or the Director of the Central Intelligence Agency. Directives issued and actions taken by the Director in the exercise of the Director's authorities and responsibilities to integrate, coordinate, and make the Intelligence Community more effective in providing intelligence related to national security shall be implemented by the elements of the Intelligence Community, provided that any department head whose department contains an element of the Intelligence Community and who believes that a directive or action of the Director violates the requirements of section 1018 of the IRTPA or this subsection shall bring the issue to the attention of the Director, the NSC, or the President for resolution in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments.

(d) Appointments to certain positions.

(1) The relevant department or bureau head shall provide recommendations and obtain the concurrence of the Director for the selection of: the Director of the National Security Agency, the Director of the National Reconnaissance Office, the Director of the National Geospatial-Intelligence

Energy, the Assistant Secretary for Intelligence and Analysis of the Department of the Treasury, and the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation. If the Director does not concur in the recommendation, the department head may not fill the vacancy or make the recommendation to the President, as the case may be. If the department head and the Director do not reach an agreement on the selection or recommendation, the Director and the department head concerned may advise the President directly of the Director's intention to withhold concurrence.

(2) The relevant department head shall consult with the Director before appointing an individual to fill a vacancy or recommending to the President an individual be nominated to fill a vacancy in any of the following positions: the Under Secretary of Defense for Intelligence; the Director of the Defense Intelligence Agency; uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps above the rank of Major General or Rear Admiral; the Assistant Commandant of the Coast Guard for Intelligence; and the Assistant Attorney General for National Security.

(e) Removal from certain positions.

(1) Except for the Director of the Central Intelligence Agency, whose removal the Director may recommend to the President, the Director and the relevant department head shall consult on the removal, or recommendation to the President for removal, as the case may be, of: the Director of the National Security Agency, the Director of the National Geospatial-Intelligence Agency, the Director of the Defense



the Director and the department head do not agree on removal, or recommendation for removal, either may make a recommendation to the President for the removal of the individual.

(2) The Director and the relevant department or bureau head shall consult on the removal of: the Executive Assistant Director for the National Security Branch of the Federal Bureau of Investigation, the Director of the Office of Intelligence and Counterintelligence of the Department of Energy, the Director of the National Reconnaissance Office, the Assistant Commandant of the Coast Guard for Intelligence, and the Under Secretary of Defense for Intelligence. With respect to an individual appointed by a department head, the department head may remove the individual upon the request of the Director; if the department head chooses not to remove the individual, either the Director or the department head may advise the President of the department head's intention to retain the individual. In the case of the Under Secretary of Defense for Intelligence, the Secretary of Defense may recommend to the President either the removal or the retention of the individual. For uniformed heads of the intelligence elements of the Army, the Navy, the Air Force, and the Marine Corps, the Director may make a recommendation for removal to the Secretary of Defense.

(3) Nothing in this subsection shall be construed to limit or otherwise affect the authority of the President to nominate, appoint, assign, or terminate the appointment or assignment of any individual, with or without a consultation, recommendation, or concurrence.

(a) Collect and provide information needed by the President and, in the performance of executive functions, the Vice President, the NSC, the Homeland Security Council, the Chairman of the Joint Chiefs of Staff, senior military commanders, and other executive branch officials and, as appropriate, the Congress of the United States;

(b) In accordance with priorities set by the President, collect information concerning, and conduct activities to protect against, international terrorism, proliferation of weapons of mass destruction, intelligence activities directed against the United States, international criminal drug activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(c) Analyze, produce, and disseminate intelligence;

(d) Conduct administrative, technical, and other support activities within the United States and abroad necessary for the performance of authorized activities, to include providing services of common concern for the Intelligence Community as designated by the Director in accordance with this order;

(e) Conduct research, development, and procurement of technical systems and devices relating to authorized functions and missions or the provision of services of common concern for the Intelligence Community;

(f) Protect the security of intelligence related activities, information, installations, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with

information needs relating to national and homeland security;

(h) Deconflict, coordinate, and integrate all intelligence activities and other information gathering in accordance with section 1.3(b)(20) of this order; and

(i) Perform such other functions and duties related to intelligence activities as the President may direct.

1.5 *Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.* The heads of all departments and agencies shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Provide all programmatic and budgetary information necessary to support the Director in developing the National Intelligence Program;

(c) Coordinate development and implementation of intelligence systems and architectures and, as appropriate, operational systems and architectures of their departments, agencies, and other elements with the Director to respond to national intelligence requirements and all applicable information sharing and security guidelines, information privacy, and other legal requirements;

(d) Provide, to the maximum extent permitted by law, subject to the availability of appropriations and not

(e) Respond to advisory tasking from the Director under section 1.3(b)(18) of this order to the greatest extent possible, in accordance with applicable policies established by the head of the responding department or agency;

(f) Ensure that all elements within the department or agency comply with the provisions of Part 2 of this order, regardless of Intelligence Community affiliation, when performing foreign intelligence and counterintelligence functions;

(g) Deconflict, coordinate, and integrate all intelligence activities in accordance with section 1.3(b)(20), and intelligence and other activities in accordance with section 1.3(b)(21) of this order;

(h) Inform the Attorney General, either directly or through the Federal Bureau of Investigation, and the Director of clandestine collection of foreign intelligence and counterintelligence activities inside the United States not coordinated with the Federal Bureau of Investigation;

(i) Pursuant to arrangements developed by the head of the department or agency and the Director of the Central Intelligence Agency and approved by the Director, inform the Director and the Director of the Central Intelligence Agency, either directly or through his designee serving outside the United States, as appropriate, of clandestine collection of foreign intelligence collected through human sources or through human-enabled means outside the United States that has not been coordinated with the Central Intelligence Agency; and

(j) Inform the Secretary of Defense, either directly or

consultation with the Director of National Intelligence.

1.6 *Heads of Elements of the Intelligence Community.* The heads of elements of the Intelligence Community shall:

(a) Provide the Director access to all information and intelligence relevant to the national security or that otherwise is required for the performance of the Director's duties, to include administrative and other appropriate management information, except such information excluded by law, by the President, or by the Attorney General acting under this order at the direction of the President;

(b) Report to the Attorney General possible violations of Federal criminal laws by employees and of specified Federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department, agency, or establishment concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(c) Report to the Intelligence Oversight Board, consistent with Executive Order 13462 of February 29, 2008, and provide copies of all such reports to the Director, concerning any intelligence activities of their elements that they have reason to believe may be unlawful or contrary to executive order or presidential directive;

(d) Protect intelligence and intelligence sources, methods, and activities from unauthorized disclosure in accordance with guidance from the Director;

(e) Facilitate, as appropriate, the sharing of information or intelligence, as directed by law or the President, to State,

accordance with section 1.3(b)(4) of this order;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of information or intelligence resulting from criminal drug intelligence activities abroad if they have intelligence responsibilities for foreign or domestic criminal drug production and trafficking; and

(h) Ensure that the inspectors general, general counsels, and agency officials responsible for privacy or civil liberties protection for their respective organizations have access to any information or intelligence necessary to perform their official duties.

1.7 *Intelligence Community Elements.* Each element of the Intelligence Community shall have the duties and responsibilities specified below, in addition to those specified by law or elsewhere in this order. Intelligence Community elements within executive departments shall serve the information and intelligence needs of their respective heads of departments and also shall operate as part of an integrated Intelligence Community, as provided in law or this order.

(a) THE CENTRAL INTELLIGENCE AGENCY. The Director of the Central Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence;

(2) Conduct counterintelligence activities without assuming or performing any internal security functions within the United States;

President. No agency except the Central Intelligence Agency (or the Armed Forces of the United States in time of war declared by the Congress or during any period covered by a report from the President to the Congress consistent with the War Powers Resolution, Public Law 93-148) may conduct any covert action activity unless the President determines that another agency is more likely to achieve a particular objective;

(5) Conduct foreign intelligence liaison relationships with intelligence or security services of foreign governments or international organizations consistent with section 1.3(b)(4) of this order;

(6) Under the direction and guidance of the Director, and in accordance with section 1.3(b)(4) of this order, coordinate the implementation of intelligence and counterintelligence relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments or international organizations; and

(7) Perform such other functions and duties related to intelligence as the Director may direct.

(b) THE DEFENSE INTELLIGENCE AGENCY. The Director of the Defense Intelligence Agency shall:

(1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions;

(2) Collect, analyze, produce, or, through tasking and coordination, provide defense and defense-related intelligence for the Secretary of Defense, the Chairman of the

activities within and outside the United States as necessary for cover and proprietary arrangements;

(5) Conduct foreign defense intelligence liaison relationships and defense intelligence exchange programs with foreign defense establishments, intelligence or security services of foreign governments, and international organizations in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order;

(6) Manage and coordinate all matters related to the Defense Attaché system; and

(7) Provide foreign intelligence and counterintelligence staff support as directed by the Secretary of Defense.

(c) THE NATIONAL SECURITY AGENCY. The Director of the National Security Agency shall:

(1) Collect (including through clandestine means), process, analyze, produce, and disseminate signals intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Establish and operate an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense, after coordination with the Director;

(3) Control signals intelligence collection and



activities within and outside the United States as necessary for cover arrangements;

(5) Provide signals intelligence support for national and departmental requirements and for the conduct of military operations;

(6) Act as the National Manager for National Security Systems as established in law and policy, and in this capacity be responsible to the Secretary of Defense and to the Director;

(7) Prescribe, consistent with section 102A(g) of the Act, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling, and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the National Security Agency, and exercise the necessary supervisory control to ensure compliance with the regulations; and

(8) Conduct foreign cryptologic liaison relationships in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(d) THE NATIONAL RECONNAISSANCE OFFICE. The Director of the National Reconnaissance Office shall:

(1) Be responsible for research and development, acquisition, launch, deployment, and operation of overhead systems and related data processing facilities to collect intelligence and information to support national and departmental missions and other United States Government needs; and

(2) Conduct foreign liaison relationships relating

(1) Collect, process, analyze, produce, and disseminate geospatial intelligence information and data for foreign intelligence and counterintelligence purposes to support national and departmental missions;

(2) Provide geospatial intelligence support for national and departmental requirements and for the conduct of military operations;

(3) Conduct administrative and technical support activities within and outside the United States as necessary for cover arrangements; and

(4) Conduct foreign geospatial intelligence liaison relationships, in accordance with sections 1.3(b)(4), 1.7(a)(6), and 1.10(i) of this order.

(f) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS. The Commanders and heads of the intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps shall:

(1) Collect (including through clandestine means), produce, analyze, and disseminate defense and defense-related intelligence and counterintelligence to support departmental requirements, and, as appropriate, national requirements;

(2) Conduct counterintelligence activities;

(3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and

(4) Conduct military intelligence liaison relationships and military intelligence exchange programs with

INVESTIGATION. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the intelligence elements of the Federal Bureau of Investigation shall:

- (1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence to support national and departmental missions, in accordance with procedural guidelines approved by the Attorney General, after consultation with the Director;
- (2) Conduct counterintelligence activities; and
- (3) Conduct foreign intelligence and counterintelligence liaison relationships with intelligence, security, and law enforcement services of foreign governments or international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(h) THE INTELLIGENCE AND COUNTERINTELLIGENCE ELEMENTS OF THE COAST GUARD. The Commandant of the Coast Guard shall:

- (1) Collect (including through clandestine means), analyze, produce, and disseminate foreign intelligence and counterintelligence including defense and defense-related information and intelligence to support national and departmental missions;
- (2) Conduct counterintelligence activities;
- (3) Monitor the development, procurement, and management of tactical intelligence systems and equipment and conduct related research, development, and test and evaluation activities; and
- (4) Conduct foreign intelligence liaison

1.10(i) of this order.

(i) THE BUREAU OF INTELLIGENCE AND RESEARCH, DEPARTMENT OF STATE; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY; THE OFFICE OF NATIONAL SECURITY INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION; THE OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY; AND THE OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE, DEPARTMENT OF ENERGY.

The heads of the Bureau of Intelligence and Research, Department of State; the Office of Intelligence and Analysis, Department of the Treasury; the Office of National Security Intelligence, Drug Enforcement Administration; the Office of Intelligence and Analysis, Department of Homeland Security; and the Office of Intelligence and Counterintelligence, Department of Energy shall:

(1) Collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support national and departmental missions; and

(2) Conduct and participate in analytic or information exchanges with foreign partners and international organizations in accordance with sections 1.3(b)(4) and 1.7(a)(6) of this order.

(j) THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. The Director shall collect (overtly or through publicly available sources), analyze, produce, and disseminate information, intelligence, and counterintelligence to support the missions of the Office of the Director of National Intelligence, including the National Counterterrorism Center,

shall:

(a) Collect (overtly or through publicly available sources) information relevant to United States foreign policy and national security concerns;

(b) Disseminate, to the maximum extent possible, reports received from United States diplomatic and consular posts;

(c) Transmit reporting requirements and advisory taskings of the Intelligence Community to the Chiefs of United States Missions abroad; and

(d) Support Chiefs of United States Missions in discharging their responsibilities pursuant to law and presidential direction.

1.9 *The Department of the Treasury.* In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of the Treasury under sections 1.4 and 1.7(i) of this order the Secretary of the Treasury shall collect (overtly or through publicly available sources) foreign financial information and, in consultation with the Department of State, foreign economic information.

1.10 *The Department of Defense.* The Secretary of Defense shall:

(a) Collect (including through clandestine means), analyze, produce, and disseminate information and intelligence and be responsive to collection tasking and advisory tasking by the Director;

(b) Collect (including through clandestine means), analyze, produce, and disseminate defense and defense-related intelligence and counterintelligence, as required for execution

of Department of Defense components and coordinate counterintelligence activities in accordance with section 1.3(b)(20) and (21) of this order;

(e) Act, in coordination with the Director, as the executive agent of the United States Government for signals intelligence activities;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director, within the United States Government;

(g) Carry out or contract for research, development, and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain defense intelligence relationships and defense intelligence exchange programs with selected cooperative foreign defense establishments, intelligence or security services of foreign governments, and international organizations, and ensure that such relationships and programs are in accordance with sections 1.3(b)(4), 1.3(b)(21) and 1.7(a)(6) of this order;

(j) Conduct such administrative and technical support activities within and outside the United States as are necessary to provide for cover and proprietary arrangements, to perform

Department of Defense identified in section 1.7(b) through (f) and, when the Coast Guard is operating as part of the Department of Defense,

(h) above to carry out the Secretary of Defense's responsibilities assigned in this section or other departments, agencies, or offices within the Department of Defense, as appropriate, to conduct the intelligence missions and responsibilities assigned to the Secretary of Defense.

1.11 *The Department of Homeland Security.* In addition to the authorities exercised by the Office of Intelligence and Analysis of the Department of Homeland Security under sections 1.4 and 1.7(i) of this order, the Secretary of Homeland Security shall conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President or the Vice President of the United States, the Executive Office of the President, and, as authorized by the Secretary of Homeland Security or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against use of such surveillance equipment, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of Homeland Security and the Attorney General.

1.12 *The Department of Energy.* In addition to the authorities exercised by the Office of Intelligence and Counterintelligence of the Department of Energy under sections 1.4 and 1.7(i) of this order, the Secretary of Energy shall:

(a) Provide expert scientific, technical, analytic, and

Department can contribute; and

(c) Participate with the Department of State in overtly collecting information with respect to foreign energy matters.

1.13 *The Federal Bureau of Investigation.* In addition to the authorities exercised by the intelligence elements of the Federal Bureau of Investigation of the Department of Justice under sections 1.4 and 1.7(g) of this order and under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the Federal Bureau of Investigation shall provide technical assistance, within or outside the United States, to foreign intelligence and law enforcement services, consistent with section 1.3(b)(20) and (21) of this order, as may be necessary to support national or departmental missions.

## **PART 2**     *Conduct of Intelligence Activities*

2.1 *Need.* Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to informed decisionmaking in the areas of national security, national defense, and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative, and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 *Purpose.* This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence,



with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 *Collection of information.* Elements of the Intelligence Community are authorized to collect, retain, or disseminate information concerning United States persons only in accordance with procedures established by the head of the Intelligence Community element concerned or by the head of a department containing such element and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order, after consultation with the Director. Those procedures shall permit collection, retention, and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the Federal Bureau of Investigation (FBI) or, when significant foreign intelligence is sought, by other authorized elements of the Intelligence Community, provided that no foreign intelligence collection by such elements may be undertaken for the purpose of acquiring information concerning the domestic activities of United States

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims, or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources, methods, and activities from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other elements of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence element contractors or their present or former employees, or applicants for such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical, or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate Federal, state, local, or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, elements of the Intelligence Community may disseminate information to each appropriate element within the Intelligence Community for purposes of allowing the recipient element to determine whether the information is relevant to its responsibilities and can be retained by it, except that information derived from signals intelligence may only be

2.4 *Collection Techniques.* Elements of the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Elements of the Intelligence Community are not authorized to use such techniques as electronic surveillance, unconsented physical searches, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the Intelligence Community element concerned or the head of a department containing such element and approved by the Attorney General, after consultation with the Director. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The Central Intelligence Agency (CIA) to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by elements of the Intelligence Community other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence element contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a non-intelligence element of a military service; and

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 *Attorney General Approval.* The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. The authority delegated pursuant to this paragraph, including the authority to approve the use of electronic surveillance as defined in the Foreign Intelligence Surveillance Act of 1978, as amended, shall be exercised in accordance with that Act.

2.6 *Assistance to Law Enforcement and other Civil Authorities.* Elements of the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property,

or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the general counsel of the providing element or department; and

(d) Render any other assistance and cooperation to law enforcement or other civil authorities not precluded by applicable law.

*2.7 Contracting.* Elements of the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

*2.8 Consistency With Other Laws.* Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

*2.9 Undisclosed Participation in Organizations Within the United States.* No one acting on behalf of elements of the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any element of the Intelligence Community without disclosing such person's intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established

to achieving lawful purposes as determined by the Intelligence Community element head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 *Human Experimentation.* No element of the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 *Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in or conspire to engage in assassination.

2.12 *Indirect Participation.* No element of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

2.13 *Limitation on Covert Action.* No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

### **PART 3**      *General Provisions*

3.1 *Congressional Oversight.* The duties and responsibilities of the Director and the heads of other departments, agencies, elements, and entities engaged in intelligence activities to

including title V of the Act, shall apply to all covert action activities as defined in this Order.

3.2 *Implementation.* The President, supported by the NSC, and the Director shall issue such appropriate directives, procedures, and guidance as are necessary to implement this order. Heads of elements within the Intelligence Community shall issue appropriate procedures and supplementary directives consistent with this order. No procedures to implement Part 2 of this order shall be issued without the Attorney General's approval, after consultation with the Director. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an element in the Intelligence Community (or the head of the department containing such element) other than the FBI. In instances where the element head or department head and the Attorney General are unable to reach agreements on other than constitutional or other legal grounds, the Attorney General, the head of department concerned, or the Director shall refer the matter to the NSC.

3.3 *Procedures.* The activities herein authorized that require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order 12333. New procedures, as required by Executive Order 12333, as further amended, shall be established as expeditiously as possible. All new procedures promulgated pursuant to Executive Order 12333, as amended, shall be made available to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

President otherwise directs; references in Intelligence Community or Intelligence Community element policies or guidance, shall be deemed to be references to the heads of elements of the Intelligence Community, unless the President or the Director otherwise directs.

3.5 *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or their agents, or international terrorist organizations or activities.

(b) *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



(c) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(d) *Employee* means a person employed by, assigned or detailed to, or acting for an element within the Intelligence Community.

(e) *Foreign intelligence* means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, foreign persons, or international terrorists.

(f) *Intelligence* includes foreign intelligence and counterintelligence.

(g) *Intelligence activities* means all activities that elements of the Intelligence Community are authorized to conduct pursuant to this order.

(h) *Intelligence Community* and elements of the Intelligence Community refers to:

- (1) The Office of the Director of National Intelligence;
- (2) The Central Intelligence Agency;
- (3) The National Security Agency;
- (4) The Defense Intelligence Agency;
- (5) The National Geospatial-Intelligence Agency;

(8) The intelligence and counterintelligence elements of the Army, the Navy, the Air Force, and the Marine Corps;

(9) The intelligence elements of the Federal Bureau of Investigation;

(10) The Office of National Security Intelligence of the Drug Enforcement Administration;

(11) The Office of Intelligence and Counterintelligence of the Department of Energy;

(12) The Bureau of Intelligence and Research of the Department of State;

(13) The Office of Intelligence and Analysis of the Department of the Treasury;

(14) The Office of Intelligence and Analysis of the Department of Homeland Security;

(15) The intelligence and counterintelligence elements of the Coast Guard; and

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

(i) *National Intelligence and Intelligence Related to National Security* means all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that pertains, as determined consistent with any guidance issued by the President, or that is determined for the purpose of access to information by the Director in accordance with section 1.3(a)(1) of this

bearing on United States national or homeland security.

(j) *The National Intelligence Program* means all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the Director 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.

(k) *United States person* means a United States citizen, an alien known by the intelligence element concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.6 *Revocation.* Executive Orders 13354 and 13355 of August 27, 2004, are revoked; and paragraphs 1.3(b)(9) and (10) of Part 1 supersede provisions within Executive Order 12958, as amended, to the extent such provisions in Executive Order 12958, as amended, are inconsistent with this Order.

### 3.7 *General Provisions.*

(a) Consistent with section 1.3(c) of this order, nothing in this order shall be construed to impair or otherwise affect:

(1) Authority granted by law to a department or agency, or the head thereof; or

(2) Functions of the Director of the Office of

appropriations.

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

/s/ Ronald Reagan

THE WHITE HOUSE

December 4, 1981