

PART I. ASSESSMENT OF INTELLIGENCE ACTIVITIES

SECTION 1.1. There is hereby established within the White House Office, Executive Office of the President, the President's Foreign Intelligence Advisory Board (PFIAB). The PFIAB shall consist of not more than 16 members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the PFIAB at any one time shall be comprised of members whose term of service does not exceed 2 years. The President shall designate a Chairman and Vice Chairman from among the members. The PFIAB shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

SEC. 1.2. The PFIAB shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities. The PFIAB shall have the authority to review continually the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The PFIAB shall further be authorized to assess the adequacy of management, personnel and organization in the intelligence agencies. The heads of departments and agencies of the Federal Government, to the extent permitted by law, shall provide the PFIAB with access to all information that the PFIAB deems necessary to carry out its responsibilities.

SEC. 1.3. The PFIAB shall report directly to the President and advise him concerning the objectives, conduct, management and coordination of the various activities of the agencies of the Intelligence Community. The PFIAB shall report periodically, but at least semi-annually, concerning its findings and appraisals and shall make appropriate recommendations for the improvement and enhancement of the intelligence efforts of the United States.

SEC. 1.4. The PFIAB shall consider and recommend appropriate action with respect to matters, identified to the PFIAB by the Director of Central Intelligence, the Central Intelligence Agency, or other Government agencies engaged in intelligence or related activities, in which the advice of the PFIAB will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the PFIAB shall advise and make recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other Government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

PART II. OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 2.1. The Intelligence Oversight Board (IOB) is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than four members designated by the President from among the membership of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman or a member of the IOB if so designated by the President. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the IOB with the concurrence of the Chairman of the PFIAB.

SEC. 2.2. The IOB shall:

- (a) prepare for the President reports of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;
- (b) forward to the Attorney General reports received concerning intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;

- (c) review the internal guidelines of each agency within the Intelligence Community that concern the lawfulness of intelligence activities;

- (d) review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

- (e) conduct such investigations as the IOB deems necessary to carry out its functions under this order.

SEC. 2.3. The IOB shall report to the President. The IOB shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence, the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the IOB shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency and other agencies of the Intelligence Community.

SEC. 2.4. The heads of departments and agencies of the Intelligence Community, to the extent permitted by law, shall provide the IOB with all information that the IOB deems necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB, at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

PART III. GENERAL PROVISIONS

SEC. 3.1. Information made available to the PFIAB, or members of the PFIAB acting in their IOB capacity, shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the PFIAB, each member of the PFIAB's staff and each of the PFIAB's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her services with the PFIAB except to the President or to such persons as the President may designate.

SEC. 3.2. Members of the PFIAB shall serve without compensation but may receive transportation expenses and per diem allowance as authorized by law. Staff and consultants to the PFIAB shall receive pay and allowances as authorized by the President.

SEC. 3.3. Executive Order No. 12334 of December 4, 1981, as amended, and Executive Order No. 12537 of October 28, 1985, as amended [50 U.S.C. 403 note], are revoked.

WILLIAM J. CLINTON.

ACT REFERRED TO IN OTHER SECTIONS

The National Security Act of 1947 is referred to in sections 47e, 402c of this title; section 469 of Appendix to this title; title 6 section 121; title 21 sections 1704, 1903.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 113, 125, 155.

§ 401a. Definitions

As used in this Act:

(1) The term "intelligence" includes foreign intelligence and counterintelligence.

(2) The term "foreign intelligence" means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means information gathered, and activities con-

ducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(4) The term “intelligence community” includes—

(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 403-5(b)(3)¹ of this title), and such other offices as the Director may designate;

(B) the Central Intelligence Agency;

(C) the National Security Agency;

(D) the Defense Intelligence Agency;

(E) the National Imagery and Mapping Agency;

(F) the National Reconnaissance Office;

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

(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard;

(I) the Bureau of Intelligence and Research of the Department of State;

(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and

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

(5) The terms “national intelligence” and “intelligence related to the national security”—

(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.²

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

(7) The term “congressional intelligence committees” means—

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

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

(July 26, 1947, ch. 343, §3, as added Pub. L. 102-496, title VII, §702, Oct. 24, 1992, 106 Stat. 3188; amended Pub. L. 103-359, title V, §501(a)(1), Oct. 14, 1994, 108 Stat. 3428; Pub. L. 104-201, div. A, title XI, §1122(b)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 107-56, title IX, §902, Oct. 26, 2001, 115 Stat. 387; Pub. L. 107-108, title I, §105, Dec. 28, 2001, 115 Stat. 1397; Pub. L. 107-296, title II, §201(h), Nov. 25, 2002, 116 Stat. 2149; Pub. L. 107-306, title III, §353(a), Nov. 27, 2002, 116 Stat. 2401.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 26, 1947, ch. 343, 61 Stat. 495, as amended, known as the National Security Act of 1947. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

This title, referred to in par. (5)(B), probably should be “this Act”, meaning act July 26, 1947, see above, because this section is not a part of any title of act of July 26, 1947.

AMENDMENTS

2002—Par. (4)(J), (K). Pub. L. 107-296 added subpar. (J) and redesignated former subpar. (J) as (K).

Par. (7). Pub. L. 107-306 added par. (7).

2001—Par. (2). Pub. L. 107-56, §902(1), inserted “, or international terrorist activities” before period at end.

Par. (3). Pub. L. 107-56, §902(2), substituted “, and activities conducted,” for “and activities conducted”.

Par. (4)(H). Pub. L. 107-108 struck out “and” before “the Department of Energy” and inserted “, and the Coast Guard” before semicolon.

1996—Par. (4)(E). Pub. L. 104-201 substituted “National Imagery and Mapping Agency” for “Central Imagery Office”.

1994—Par. (4)(E). Pub. L. 103-359 substituted “the Central Imagery Office” for “the central imagery authority within the Department of Defense”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Inter-course, and section 161(d) of Pub. L. 103-236, set out as a note under section 2651a of Title 22.

¹ So in original. Probably should be section “403-3(b)(3)”.

² See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402a, 403-2a, 403-5d, 403-8, 404j, 2366 of this title; section 2170b of Appendix to this title; title 5 section 552; title 5 App. section 8H; title 6 sections 122, 331, 482; title 8 section 1701; title 10 section 437; title 12 section 3414; title 15 section 1681b; title 18 section 2517; title 22 sections 1442a, 2291-4, 7302; title 28 section 540C.

SUBCHAPTER I—COORDINATION FOR
NATIONAL SECURITY**§ 402. National Security Council****(a) Establishment; presiding officer; functions; composition**

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) the Director for Mutual Security;
- (6) the Chairman of the National Security Resources Board; and
- (7) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) Additional functions

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

- (1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and
- (2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) Executive secretary; appointment; staff employees

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President. The executive sec-

retary, subject to the direction of the Council, is authorized, subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) Recommendations and reports

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

(e) Participation of Chairman or Vice Chairman of Joint Chiefs of Staff

The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(f) Participation by Director of National Drug Control Policy

The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.

(g) Board for Low Intensity Conflict

The President shall establish within the National Security Council a board to be known as the "Board for Low Intensity Conflict". The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.

(h) Committee on Foreign Intelligence

(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the "Committee").

(2) The Committee shall be composed of the following:

- (A) The Director of Central Intelligence.
- (B) The Secretary of State.
- (C) The Secretary of Defense.

(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

(E) Such other members as the President may designate.

(3) The function of the Committee shall be to assist the Council in its activities by—

(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

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