
INTELLIGENCE COMMUNITY DIRECTIVE NUMBER 112



CONGRESSIONAL NOTIFICATION (EFFECTIVE DATE: 16 NOVEMBER 2011)

A. AUTHORITY: The National Security Act of 1947, as amended (hereinafter, National Security Act); Executive Order 12333, as amended; and other applicable provisions of law.

B. PURPOSE: This Directive establishes Intelligence Community (IC) policy to provide written notification to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (collectively the “Congressional intelligence committees”) in order to keep them fully and currently informed of intelligence activities. This Directive replaces and rescinds Intelligence Community Policy Memorandum 2005-100-3, *Reporting of Intelligence Activities to Congress*, dated January 10, 2006; *Timely Notification of Significant Intelligence Activities*, dated 24 March 2009; and *Follow-up to Reporting Intelligence Matters to Congress*, dated 15 October 2009.

C. APPLICABILITY

1. This Directive applies to the IC, as defined by the National Security Act of 1947, and to elements of any other department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence (DNI) and the head of the department or agency concerned, as an element of the IC.

2. The Directive does not preclude or alter reporting responsibilities to the President’s Intelligence Oversight Board as specified in Executive Order 13462 and any successor thereto.

3. This Directive does not apply to reporting of covert actions to the Congressional intelligence committees, to statutory reporting requirements for IC Inspectors General, or to routine informational briefings.

D. POLICY

1. The IC is committed to full and current notification of all intelligence activities as required by the National Security Act, including significant anticipated intelligence actions, significant intelligence failures, and illegal intelligence activities.

2. The provisions of this Directive shall be interpreted with a presumption of notification in fulfillment of the statutory requirement to keep the Congressional intelligence committees fully and currently informed of all intelligence activities.

3. It is IC policy that IC elements shall, in a timely manner, keep the Congressional intelligence committees fully informed, in writing, of all significant anticipated intelligence activities, significant intelligence failures, significant intelligence activities, and illegal activities.

4. IC element heads are responsible for determining whether an event is reportable under this Directive and are responsible for ensuring that Congress is notified of all intelligence activities in accordance with the provisions of this Directive.

5. Determining whether written notification should be provided of a particular intelligence activity is a judgment based on all the facts and circumstances known to the IC element, and on the nature and extent of previous notifications or briefings to Congress on the same matter. Not every intelligence activity warrants written notification. Facts and circumstances of intelligence activities change over time; therefore, IC elements must continually assess whether there is an obligation to report a matter pursuant to the National Security Act and this Directive.

6. As required by the National Security Act, Congress must receive written notification of significant anticipated intelligence activities and significant intelligence failures. General guidelines for determining the types of intelligence activities that warrant written notification follow:

a. Significant anticipated intelligence activities include:

(1) intelligence activities that entail, with reasonable foreseeability, significant risk of exposure, compromise, and loss of human life;

(2) intelligence activities that are expected to have a major impact on important foreign policy or national security interests;

(3) an IC element's transfer, to a recipient outside that IC element, of defense articles, personnel services, or "controlled equipment" valued in excess of \$1 million as provided in Section 505 of the National Security Act;

(4) extensive organizational changes in an IC element;

(5) deployment of new collection techniques that represent a significant departure from previous operations or activities or that result from evidence of significant foreign developments;

(6) significant activities undertaken pursuant to specific direction of the President or the National Security Council (this is not applicable to covert action, which is covered by Section 503 of the National Security Act); or

(7) significant acquisition, reprogramming, or non-routine budgetary actions that are of Congressional concern and that are not otherwise reportable under the National Intelligence Program Procedures for Reprogramming and Transfers.

b. Significant intelligence failures are failures that are extensive in scope, continuing in nature, or likely to have a serious impact on United States (US) national security interests and include:

(1) the loss or compromise of classified information on such a scale or over such an extended period as to indicate a systemic loss or compromise of classified intelligence information that may pose a substantial risk to US national security interests;

(2) a significant unauthorized disclosure of classified intelligence information that may pose a substantial risk to US national security interests;

(3) a potentially pervasive failure, interruption, or compromise of a collection capability or collection system; or

(4) a conclusion that an intelligence product is the result of foreign deception or denial activity, or otherwise contains major errors in analysis, with a significant impact on US national security policies, programs, or activities.

7. As a matter of policy, IC elements shall provide Congress written notification of other significant intelligence activities and illegal activities. General guidelines for determining these types of intelligence activities warranting notification follow.

a. Significant intelligence activities include:

(1) substantial changes in the capabilities or known vulnerabilities of US intelligence operations or intelligence systems or resources;

(2) programmatic developments likely to be of Congressional interest, such as major cost overruns, a major modification of, or the termination of a significant contract;

(3) developments that affect intelligence programs, projects, or activities that are likely to be of Congressional concern because of their substantial impact on national security or foreign policy;

(4) the loss of life in the performance of an intelligence activity; or

(5) significant developments in, or the resolution of, a matter previously reported under these procedures.

b. Illegal activities include:

(1) An intelligence activity believed to be in violation of US law, including any corrective action taken or planned in connection with such activity;

(2) Significant misconduct by an employee of an IC element or asset that is likely to seriously affect intelligence activities or otherwise is of congressional concern, including human rights violations; or

(3) Other serious violations of US criminal law by an employee of an IC element or asset, which in the discretion of the head of an IC element warrants congressional notification.

8. Criteria described in Sections D.6 and D.7 above are not exhaustive. The absence of any of these criteria shall not be seen as determinative. Each potential determination shall be addressed on its particular merits. If it is unclear whether a notification is appropriate, IC elements should decide in favor of notification.

E. ROLES AND RESPONSIBILITIES: To ensure full and current written notification of intelligence activities consistent with this Directive, each IC element head shall:

1. Designate as a point of contact a senior official who will have access to all relevant information to assist the IC element head in identifying matters that should be reported and who will be responsible for ensuring that notifications are full and current.

2. Establish, in writing, internal processes that will ensure timely identification and full and current reporting of intelligence activities, consistent with this Directive.

3. Provide the Office of the Director of National Intelligence Office of Legislative Affairs (ODNI/OLA) with a point of contact pursuant to Section E.1 above and a copy of the procedures established pursuant to section E.2 above.

4. Ensure that written notifications required under this Directive are provided promptly upon determination that the intelligence activity should be reported under this Directive and the National Security Act.

a. Within 14 days of final determination by an IC element head (or designee) that a significant activity should be reported, an IC element shall provide written notification. If a complete written notification is not possible at that time, an IC element may provide preliminary oral notification and a projected time for further or final notification.

b. Written notifications shall contain a concise statement of the pertinent facts, an explanation of the significance of the intelligence activity, and the role of all departments and agencies involved in the intelligence activity.

c. Oral notifications shall be followed by a written notification, which shall include, in addition to the information described in Section E.4.b above, the date of the oral notification, the office responsible for the subject of the oral notification, and the Congressional members and staff orally notified.

d. Notification of routine administrative matters such as reprogrammings, facility lease arrangement and renewals, or contract awards should be made with reference to the element's established timeline for such issues and consistent with Congressional requirements and budget processes.

5. Coordinate, as appropriate, with any other department, agency, or other entity of the US Government involved in the intelligence activity to ensure that an intelligence activity is fully and currently reported to the Congressional intelligence committees.

6. Conduct annual training for element personnel involved in intelligence activities regarding the IC's obligation to provide information to Congress under the National Security Act and this Directive.

7. Provide the ODNI/OLA copies of all Congressional notifications at the time they are provided to Congress, and a summary of any oral notification.


F. COORDINATION WITH THE DEPARTMENT OF JUSTICE REGARDING CRIMINAL INVESTIGATIONS AND PROSECUTIONS: Where intelligence information subject to this Directive relates to criminal investigations and prosecutions or reasonably anticipated criminal investigations and prosecutions, the IC shall comply with the following procedures:

1. IC elements shall consult with the Attorney General's designee or designees prior to providing the information to Congressional committees, members, or staff. With respect to the Congressional intelligence committees, this coordination shall ensure that the IC meets its reporting obligations under the National Security Act in a manner consistent with the integrity and independence of criminal investigations and prosecutions.

2. Disagreements between an IC element and the Department of Justice regarding the application of this section will be referred for resolution to the Attorney General and the DNI.

G. LIMITATION: Nothing in this directive shall be construed to limit an IC element's obligation to report matters to other Congressional committees with oversight jurisdiction or appropriations responsibility for that IC element, subject to the principles identified above regarding criminal matters or potential criminal matters.

H. EFFECTIVE DATE: This Directive becomes effective on the date of signature.



Director of National Intelligence

16 November 2011
Date