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Summary of Key Provisions

TITLE I

Statutory Authorization

The Act provides comprehensive statutory authority for U.S. intelligence activities, including--

- foreign intelligence activities (collection, analysis, production);
- counterintelligence activities (against clandestine intelligence activities of foreign powers);
- counterterrorism intelligence activities (against international terrorism);
- special activities (or covert action).

Special Activities

The purpose of the Act is to ensure that special activities are undertaken only--

- in support of important national security interests;
- when overt alternatives would not be likely to achieve the objective;
- when the activities are consistent with U.S. aims, values, and policies; and
- when the anticipated benefits justify the foreseeable risks and likely consequences.

There must be a prior presidential finding that the activity or category of activities is important to national security and consistent with these purposes.

- Each activity that involves substantial resources, risks, or consequences requires a presidential finding.
- Other presidential findings may be by category, and a National Security Council committee is to ensure that each activity in the category is consistent with the presidential finding.

Presidential findings are preceded by a National Security Council committee review, including dissenting views. The NSC committee must include the Secretaries of State and Defense, the Attorney General, the Director of National Intelligence, or if unavailable their representatives.

On file NSC release instruction applies

### Limitations

General limitations on intelligence authorities include the following--

- a ban on assassination;
- Presidential guidelines to protect the integrity and independence of private U.S. institutions and limits on religious, media, and educational cover;
- a ban on covert domestic publication;
- restrictions on concealed sponsorship of contract arrangements with U.S. organizations;
- a ban on requesting or encouraging others to act on behalf of the U.S. Government in violation of the charter.

### Intelligence Oversight Board

Matters of legality or propriety are handled by an Intelligence Oversight Board appointed by the President. Specific duties are assigned to--

- the general counsels and inspectors general of each agency;
- the Attorney General regarding legal questions; and
- agency heads for reporting law violations and taking disciplinary action.

### Congressional Oversight

The congressional oversight provisions parallel Executive Order 12036 and S.Res. 400 which created the Senate Intelligence Committee. Consistent with the constitutional authorities and duties of the executive and legislative branches, the agency heads are to--

- keep the Intelligence Committees fully and currently informed of all intelligence activities, including any significant anticipated activity; but this does not require committee approval or consent as a "condition precedent to the initiation" of any activity;
- furnish the Intelligence Committees, upon request, any information or material concerning intelligence activities; and

- report in a timely fashion to the Intelligence Committees information about illegal or improper intelligence activities and corrective actions.

Each special activity or category of special activities is a "significant intelligence activity" requiring prior notice to the Intelligence Committees. However, if the President finds it essential to meet extraordinary circumstances affecting vital national interests, prior notice may be limited for a 48-hour period to the chairmen and ranking minority members of the Intelligence Committees, the Speaker and minority leader of the House, and the majority and minority leader of the Senate.

## TITLE II

### Activities Affecting U.S. Persons

The Act establishes basic statutory standards, and requires procedures approved by the Attorney General, for activities that affect U.S. persons. "Extraordinary techniques" (wiretaps, searches) and other "covert techniques" designated by the President to protect privacy are subject to additional regulation.

- Counterintelligence and counterterrorism intelligence activities directed against U.S. persons must be based on facts and circumstances which reasonably indicate that the person is or may be engaged in clandestine intelligence activities on behalf of a foreign power or international terrorism.
- Foreign intelligence may be collected by "covert techniques" or "extraordinary techniques" directed against U.S. persons only in the course of counterintelligence or counterterrorism intelligence collection or if the President finds that extraordinary circumstances require targeting a U.S. person to obtain essential foreign intelligence.
- Court orders from the court set up by the Foreign Intelligence Surveillance Act are required for "extraordinary techniques" directed against U.S. persons abroad. A criminal standard is not required, and provision is made to protect liaison relationships with foreign governments. A three-day emergency authority is also granted to act before obtaining a court order.

Three other limited types of authority are granted, but may not involve the use of "covert techniques" or "extraordinary techniques" against U.S. persons.

- Collection of information concerning U.S. persons who are targets of clandestine intelligence gathering activity of foreign governments.
- Collection of information concerning U.S. persons to determine the suitability of potential sources.
- Collection of information concerning U.S. persons to provide security for intelligence activities.

Reports to the Attorney General or a designee are required for activities that continue beyond a year, and for sensitive activities that may affect First Amendment rights.

#### Criminal and Civil Penalties

The criminal penalties and civil liability provisions of the Foreign Intelligence Surveillance Act are applied to employees of the United States who violate the charter provisions on electronic surveillance of Americans abroad and physical search in the United States or against Americans abroad.

#### TITLES III-VI

#### Intelligence Community Organization

The Act establishes an "intelligence community" under the policy guidance of the National Security Council and composed of--

- the Director of National Intelligence (DNI);
- CIA, NSA, and DIA;
- the FBI Intelligence Division;
- the State Department Bureau of Intelligence and Research;
- other Defense Department intelligence components;
- the foreign intelligence components of the Treasury and Energy Departments; and
- intelligence components of other departments and agencies, as designated by the President.

Specific responsibilities are assigned to the Director of National Intelligence, the FBI Director, and the NSA Director--

- The DNI remains CIA Director unless the President splits the "two hats" and appoints the Deputy DNI or an Assistant DNI as CIA Director.
- The FBI Director has primary responsibility for counterintelligence and counterterrorism intelligence activities in the United States.
- The NSA Director has principal responsibility for signals intelligence activities.

The detailed authorities of the CIA, the FBI Intelligence Division, and NSA are spelled out in separate titles.

#### Director of National Intelligence

The community-wide responsibilities of the DNI reflect the duties presently assigned to the Director of Central Intelligence. They include:

- coordinating all collection of "national intelligence" to meet national policymaking needs;
- coordinating all clandestine collection, counterintelligence, and counterterrorism intelligence activities abroad;
- ensuring appropriate implementation of special activities;
- producing community-wide "national intelligence" estimates and analyses;
- protecting intelligence sources and methods from unauthorized disclosure; and
- prepare and submit a national intelligence budget for the intelligence community.

The DNI is mandated to evaluate the quality of "national intelligence" and to ensure that any diverse viewpoints are presented fully, considered carefully, and expressed clearly for policymakers.

### Freedom of Information Act Exemption

The CIA is given a limited exemption from the Freedom of Information Act for files specifically designated to be concerned with--

- the design, function, deployment, exploitation or utilization of scientific or technical systems for the collection of intelligence;
- special activities and intelligence operations;
- inquiries to determine the suitability of potential intelligence sources; or
- intelligence and security liaison arrangements or information exchanges with foreign governments.

However, the Freedom of Information Act and Privacy Act would still apply to requests by U.S. citizens and resident aliens for information concerning themselves.

### TITLE VII

#### Criminal Penalty for Unauthorized Disclosure

Criminal penalties are imposed on persons who have or have had access to classified information that identifies an undercover intelligence agent and violate their obligation to protect its secrecy.

### TITLE VIII

#### Physical Searches Within the United States

The Foreign Intelligence Surveillance Act is amended to require the court order procedures of that law for "physical search," defined as any search of property located in the United States and any opening of mail in the United States, under circumstances in which a warrant would be required for law enforcement. The standards remain the same. There must be probable cause of criminal activity by any U.S. person whose property or mail is to be searched.