
INTELLIGENCE COMMUNITY DIRECTIVE NUMBER 111



ACCOUNTABILITY REVIEWS (EFFECTIVE DATE: 04 AUGUST 2011)

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

B. PURPOSE: This Directive implements Section 102A(f)(7) of the National Security Act, as amended. This provision states in pertinent part that “the Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a Congressional intelligence committee, conduct an accountability review of an element of the Intelligence Community (IC) or the personnel of such element.” This Directive establishes policy and procedures governing the conduct of such reviews.

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

D. POLICY: The national security missions of IC elements are of singular importance. It is essential that alleged failures or deficiencies involving an IC element or senior IC personnel in the management or execution of IC missions be carefully reviewed and fully resolved. When the DNI elects to undertake a review, either at the DNI’s own initiative, or in response to a Congressional intelligence committee request, the DNI may convene an Advisory Board and/or a Full Review Board in accordance with the following principles. The accountability review process is designed to assist the DNI in assessing the roles and responsibilities of the IC elements and personnel related to the activities under review and developing pertinent findings and recommendations.

1. The accountability review process set forth in this Directive will be invoked at the DNI’s sole discretion, typically in extraordinary circumstances when there is a question of significant

intelligence-related failures or deficiencies by or in an IC element, or involving the conduct of senior IC personnel within an element or elements of the IC.

2. Except in extraordinary circumstances as determined by the DNI, the DNI will not conduct or will defer conducting accountability reviews pending the completion of any review on the same or related issues being conducted by law enforcement entities, inspectors general, internal agency or department accountability reviews, the President's Intelligence Advisory Board, civil liberties and privacy offices, the Council of the Inspectors General on Integrity and Efficiency, or other duly authorized investigative bodies.

a. If the DNI convenes a Board while one of the aforementioned reviews is on-going, the Board Chair shall coordinate with the applicable reviewing body prior to interviewing any witnesses or taking any significant step that may impact other duly authorized investigative bodies.

b. In the event a review is conducted following a criminal inquiry, but prior to the final determination of whether a prosecution will be brought, the Board shall specifically consider the findings of the criminal inquiry and the potential for a future prosecution in making its findings and recommendations.

3. When considering whether to conduct an accountability review, the DNI will consult with the head of the agency and the head of the Department in which the IC element is located. If an accountability review is undertaken, the DNI will communicate with the head of the Department throughout the process and in each instance that the DNI directly engages with the applicable IC element head.

4. In undertaking an accountability review, the DNI may convene an Advisory Board to conduct a preliminary review to determine whether a full review is necessary, or a Full Review Board to assess the roles and responsibilities of IC elements and personnel related to activities under review and to propose recommendations for action, as the DNI deems appropriate.

a. **ADVISORY BOARD:** The purpose of an Advisory Board is to make a recommendation, based on a preliminary review of the issue, to the DNI as to the necessity of convening a Full Review Board; the scope of the inquiry, if recommended; and the proposed composition of the Full Review Board.

b. **FULL REVIEW BOARD:** The purpose of a Full Review Board is to conduct a full review of the alleged failure or deficiency as directed by the DNI. The Full Review Board will make a determination of accountability and provide a recommendation to the DNI as to the necessity of any corrective, disciplinary, or commendatory action.

c. As used in this Directive, the term "Board" shall refer to both an Advisory Board and a Full Review Board.

5. Nothing in this Directive shall be construed to limit the DNI's authority to convene other advisory boards as appropriate.

E. PROCEDURES.

1. **GENERAL PROCEDURES:** When the DNI elects to undertake an accountability review, either at the DNI's own initiative, or in response to a request from a Congressional intelligence committee, the DNI may convene an Advisory Board or a Full Review Board in accordance with

the following procedures and principles. Each Board shall have the authority to conduct proceedings in a manner consistent with these procedures.

a. Absent extraordinary circumstances as determined by the DNI, all IC personnel whose activities are under review and the head of the applicable IC element shall be provided notice of the following:

- (1) the convening of a Board;
- (2) the identity of the Board Members;
- (3) the nature and scope of the inquiry;
- (4) a point of contact;
- (5) the Board's authority to make recommendations;
- (6) the DNI's authority to make the final determination of accountability, and the fact that the DNI may disregard all or any portion of the Board's recommendation;
- (7) the personnel or element's ability to obtain access to relevant records pursuant to paragraphs (c) and (d) of this section;
- (8) the personnel or element's ability to respond to the Board's findings and recommendations and the timeframe for such response; and
- (9) the requirement that any retained legal representative must have a current security clearance or a limited security approval from the applicable agency.

The requirement to provide notification to personnel and elements under review does not preclude the Board from considering other issues that may arise after the Board's deliberations begin.

b. IC personnel whose activities are under review and the head of the applicable IC element (or senior designee) shall have the opportunity to provide written input to the Board before its recommendations are finalized. At its discretion, the Board may also provide individuals whose activities are under review the opportunity to appear personally before the Board.

c. To the extent consistent with the national security interests of the United States (US) and other applicable law, IC personnel whose activities are under review and the head of the applicable IC element shall be provided, consistent with Section F below and upon request, access to the documents, records, and reports relevant to accountability review matters concerning them, except for IG complainant statements and documents protected by statute. Any dispute concerning what information is relevant and should be made available shall be resolved by the Principal Deputy Director of National Intelligence (PDDNI), or by the individual acting in that capacity, in consultation with the Office of the Director of National Intelligence (ODNI) Principal Deputy General Counsel.

d. IC personnel whose activities are under review who no longer have access to IC facilities shall be given escorted access to a secure facility to permit the preparation of any classified submissions.

e. Except as provided in paragraph E.1.b, neither the IC personnel whose activities are under review, the head of the applicable IC element, nor their representatives shall have the right to attend the Board's meetings.

f. At the conclusion of the Board's review, the Board shall prepare findings and recommendations to the DNI. To the extent consistent with the national security interests of the US and other applicable law, a copy of the relevant portions of the Board's findings shall be provided to the IC personnel whose activities were reviewed and the head of the affected IC element. In the event that the Board is unable to reach consensus on its findings or its recommendation, the Board Chair shall report to the DNI the views of individual Board members, as well as the Board Chair's recommended course of action.

g. Following receipt of the Board's recommendations as required in paragraph E.1.f, the IC personnel whose activities are under review and the head of the affected IC element shall be provided an opportunity to reply to the Board's recommendation, as specified in Sections E.2 and E.3 of this Directive.

h. At the conclusion of the review, the Board's findings and recommendations, any response by the IC personnel or applicable IC element whose activities were reviewed, and any Board response thereto shall be provided to the DNI for review and final decision.

i. In accordance with Section 535 of Title 28, US Code, the Boards shall expeditiously report to the DNI, through the ODNI Principal Deputy General Counsel, any information, allegation, or complaint received by the Board relating to violations of Federal criminal law. The DNI will expeditiously refer the matter to the Attorney General as required by law and to the Department of Defense for such information relating to members of the uniformed services.

2. SPECIFIC PROCEDURES FOR ADVISORY BOARD.

a. An Advisory Board shall consist of 5 or 6 members selected by the DNI from among the senior career staff of the IC. Service on an Advisory Board shall be temporary and an additional duty for each selected Board member. Board members shall not participate on the Board in circumstances where conflict of interest or bias would interfere with the member's ability to participate objectively. Advisory Board members should be senior in rank and position to those individuals under review where possible, and should include at least one member from the applicable IC element or Department selected by the DNI from candidates provided by the applicable IC element head or Department head. The DNI will select the Chair of an Advisory Board from among the members. The ODNI Principal Deputy General Counsel shall provide any necessary legal advice and counsel to the Advisory Board.

b. The Board shall provide the DNI a recommendation as to:

- (1) whether to open a Full Review Board into the matter;
- (2) the scope of that inquiry; and
- (3) the proposed composition of the Full Review Board.

An Advisory Board should not conduct an independent investigation; rather, it should review readily available information, taking into consideration any other completed reviews of the same or related matters, in order to assess whether a Full Review Board should be convened. Information is considered readily available if it can be provided to the Advisory Board without significant difficulty, delay, or effect on IC element operations.

c. Within 30 days of convening, and consistent with paragraph E.1.g, an Advisory Board's findings and recommendations shall be provided to the IC personnel whose actions are under review and the head of the applicable IC element, who will have 15 days from receipt to provide written submissions in response. An Advisory Board may provide written responses to the submissions from the IC personnel whose activities are under review and the head of the affected IC element within 5 days of receiving those responses. The Advisory Board shall provide its findings and recommendations, along with any submissions from the affected IC element and IC personnel, and any response thereto to the DNI.

d. Upon receipt of an Advisory Board's recommendations, described in paragraph E.2.c above, the DNI may (1) convene a Full Review Board; (2) decline to convene a Full Review Board, and proceed to close the matter; (3) forward the information to another reviewing authority (i.e. applicable IC element head, a relevant inspector general, civil liberties officer, privacy officer, or the President's Intelligence Oversight Board); or (4) return the recommendation to the Advisory Board to address follow-up questions. The DNI has discretion to accept or reject the recommendations of the Advisory Board and to set the scope of a Full Review Board. If the DNI exercises the authority to convene a Full Review Board, the DNI shall do so pursuant to the procedures discussed below.

e. The DNI may terminate the activity of an Advisory Board at any time.

3. SPECIFIC PROCEDURES FOR FULL REVIEW BOARD.

a. The members of a Full Review Board shall be selected by the DNI from among the senior career staff of the IC with relevant expertise on subjects related to the inquiry and may also include former IC personnel or outside experts with relevant background and expertise. Service on a Full Review Board shall be temporary and an additional duty for each selected individual. Board members shall not participate on the Board in circumstances where conflict of interest or bias would interfere with the member's ability to participate objectively. A Full Review Board should include at least one member from the applicable IC element or Department, selected by the DNI from candidates provided by the applicable IC element head or Department head. The Chair of the Full Review Board shall be the PDDNI or individual acting in that capacity. The ODNI Principal Deputy General Counsel shall provide legal advice and counsel to the Full Review Board as necessary. All Board members must either have a current security clearance or a limited security approval from the applicable agency.

b. A Full Review Board shall be convened by the DNI for a period determined by the DNI. A Full Review Board shall conduct an independent review of the matter, to include obtaining and reviewing documents and interviewing witnesses, and shall recommend to the DNI whether corrective, disciplinary, commendatory, or no action should be taken.

c. Within the period determined by the DNI in paragraph E.3.b and consistent with paragraph E.1.g, a Full Review Board's findings and recommendations for action shall be provided to the IC personnel whose activities were reviewed and the head of the affected IC element, who will have 15 days from receipt to submit a response. The Full Review Board may provide responses to the submissions from the IC personnel and head of the applicable IC element within 15 days. The Full Review Board shall provide its findings, recommendations for action, any submissions from the affected IC element and IC personnel, and any response thereto to the DNI.

d. Upon receipt of the Full Review Board's submissions described in paragraph E.3.c above, the DNI may make a recommendation to the applicable IC element head as required by Section 102A(f)(7) of the National Security Act. The DNI has discretion to accept or reject the recommendation of the Full Review Board.

e. The DNI may terminate the activity of a Full Review Board at any time.

4. The DNI shall promptly notify the IC personnel whose activities were reviewed and the head of the applicable IC element of his recommendations for corrective, disciplinary, commendatory, or no action. The head of the applicable IC element shall promptly notify the DNI whether the head of such element will follow the DNI's recommendation for action and, if applicable, the reasons why the recommendation will not be followed. In addition, pursuant to Section 102A(f)(7) of the National Security Act, if the head of such element decides not to follow the DNI's recommendation for action, that IC element head shall submit to the Congressional intelligence committees a notice of the determination not to implement the recommendation, including reasons for the determination.

F. SCOPE OF ACCESS TO RECORDS: In discharging their respective responsibilities, an Advisory Board and a Full Review Board shall have direct access except as prohibited by law (to include judicial orders) to all records, reports, audits, reviews, documents, drafts, recommendations, and all other materials that may relate to the matter being reviewed, regardless of compartmentation or classification, and shall be appropriately cleared and indoctrinated for such access. Additionally, all accountability reviews shall adhere to proper protection of Sensitive Compartmented Information (SCI) and classified intelligence information in accordance with applicable IC Directives.

G. PROHIBITION OF REPRISALS AND/OR DISCLOSURE OF IDENTITIES.

1. No individual shall take or threaten to take personnel or other retaliatory action against any member of a Board or against any individual for making information available to a Board (unless it is determined that the information was provided with the knowledge that it was false or with willful disregard for its truth or falsity).

2. Except as provided in this Directive, no individual who has access to the deliberations or recommendations of a Board shall disclose (1) the information relating to or which reasonably could lead to the discovery of the status or focus of the inquiry; or (2) the identity of any individual who provided information to or was questioned by a Board, unless disclosure is approved by the DNI or determined by the DNI to be unavoidable during or after the course of the review.

H. SPECIAL CONSIDERATIONS FOR UNIFORMED SERVICE MEMBERS

ATTACHED TO IC ELEMENTS: Any action to implement a DNI recommendation affecting uniformed service members attached to IC elements made at the conclusion of an accountability review shall be administered in accordance with Department or Service administrative procedures.

I. NO ADDITIONAL DUE PROCESS OR PROPERTY RIGHTS CREATED: This Directive is not intended to, and does not create additional rights, substantive or procedural (to include due process, property, or other interest or privilege in employment by the ODNI or any other element of the IC), enforceable at law or equity, by any party in any matter, civil or criminal,

nor does it place any limitation on otherwise lawful investigative and limitative prerogatives of the US Government (to include the authority of an IC element head or the head of the Department in which those personnel are employed to terminate an individual's employment), with or without the proceedings set forth in this Directive.

J. SAVINGS CLAUSE: Nothing in this Directive shall affect any protections afforded to IC personnel in the event of unfavorable or adverse actions.

K. DESIGNATION OF OFFICE OF RECORD: The ODNI Information Management Office (ODNI/IMO) is hereby designated as the Office of Record for all materials made available to, or produced by a Board. All notes, records, drafts, final reports, or other materials produced by a Board shall be delivered to the ODNI/IMO for retention.

L. FEDERAL ADVISORY COMMITTEE ACT: Whenever an Advisory or Full Board is established under this Directive, the DNI will determine whether its proceedings are exempt from the Federal Advisory Committee Act (5 US Code App.) based on reasons of national security.

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



Director of National Intelligence

4 AUG 2011

Date