

THE REPUBLIC OF INDONESIA DRAFT LAW

NUMBER 17 YEAR 2011

ON

STATE INTELLIGENCE

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that to fulfill the national objective of a state that protects each and every Indonesian citizen, advances general prosperity, enlightens the life of the nation and helps maintain a global order based on independence, lasting peace and social justice as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia, it is essential to have early detection and warning capable of supporting efforts to ward off any form of threats that may endanger the existence and integrity of the Unitary State of the Republic of Indonesia;
- b. that in line with the changes, developments of the situations and conditions pertaining to strategic environment, it is necessary to implement early detection and warning toward various forms and characteristics of threats, both domestic and foreign, which are complex and range over a wide spectrum;

- c. that in order to conduct early detection and early warning for the purpose of preventing sudden occurrence of various threats, there is a need for strong and professional State Intelligence as well as strengthening cooperation and coordination of State Intelligence with respect for the rule of law, democratic values and human rights as a mandated in the 1945 Constitution of the Republic of Indonesia;
- d. that in order to provide legal certainty as well as in accordance with legal needs of society, the conduct of State Intelligence as the first line of national security system should be regulated more comprehensively;
- e. that based on the consideration outlined in letters a, b, c, and d, it is necessary to enact a Law on State Intelligence.

Pursuant to:

Article 20, Article 21, Article 28 and Article 28J of the 1945 Constitution of the Republic of Indonesia;

In mutual agreement,

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

and

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDE:

To Enact: LAW ON STATE INTELLIGENCE

SECTION I
GENERAL PROVISIONS

Article 1

In this Law:

1. “Intelligence” means the knowledge, organizations, and activities related to the formulation of policy, national strategy, and decision-making based on analysis of collected information and facts through the working methods for early detection and warning for the purpose of preventing, deterring, and containing any threat against national security.
2. “State Intelligence” means an Intelligence institution that is an integral part of the national security system with powers to perform the functions and activities of the State Intelligence.
3. “State Intelligence Personnel” means Indonesian citizens with special Intelligence abilities who serve in State Intelligence.
4. “Threat” means any effort, work, activity and action, both domestic and foreign, which is regarded and/or proven to be endangering the safety of the nation, security, sovereignty, territorial integrity of the Unitary State of the Republic of Indonesia, as well as national interests in various aspects, whether ideological, political, economic, social, cultural, or defense and security.
5. “Every Person” means an individual or a legal entity.

6. "Intelligence Secret" means Intelligence information, object, personnel, and/or efforts, work, activities protected by confidentiality to prevent access, knowledge, or possession by parties that have no right to them.
7. "Retention Period" means the period for protecting and keeping Intelligence Secret.
8. "Adversary" means a party, foreign and domestic, that conducts efforts, work, activities and action that may threaten national interests and security.
9. "Target" means a person, an object, or a condition to be achieved from Intelligence function.
10. "Code of Ethics of State Intelligence" is a guideline to be, talk, act, and behave for State Intelligence Personnel in performing duties and socializing in daily life.

Article 2

Organizing principles of Intelligence include:

- a. professionalism;
- b. secrecy;
- c. compartmentalization;
- d. coordination;
- e. integrity;
- f. neutrality;
- g. accountability; and
- h. objectivity.

Article 3

Essentially, State Intelligence is the first line in the national security system

SECTION II

ROLES, OBJECTIVES, FUNCTIONS AND SCOPE

Part One

Roles

Article 4

The role of the State Intelligence is to conduct efforts, work, activities and actions for early detection and warning in order to prevent, deter and contain any threat that may arise and threaten national interests and security.

Part Two

Objectives

Article 5

The objective of the State Intelligence to detect, identify, assess, analyze, interpret, and present Intelligence in order to provide early warning for anticipating various forms and characteristics of potential and real threats

against the safety and existence of the nation as well as the existing opportunities for national interests and security.

Part Three

Functions

Article 6

- (1) State Intelligence performs the functions of investigation, security, and support.
- (2) Investigation as referred to in paragraph (1) consists of a series of efforts, work, activities, and actions carried out in a planned and directed manner to seek, find, collect, and process information into Intelligence, and present it as an input for policy formulation and decision-making.
- (3) Security as referred to in paragraph (1) consists of a series of activities carried out in a planned and directed manner to prevent and/or counter efforts, work, activities of [other] Intelligence agencies and/or Adversaries that are detrimental to national interests and security.
- (4) Support as referred to in paragraph (1) consists of a series of efforts, work, activities, and actions carried out in a planned and directed manner in order to influence a Target [in a way that will] benefit national interests and security.
- (5) In carrying out the functions as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4), laws, democratic values and human rights must be respected.

Part Four

Scope

Article 7

The scope of the State Intelligence includes:

- a. Intelligence at home and abroad;
- b. Defense and/or military Intelligence;
- c. Police Intelligence;
- d. Law enforcement Intelligence, and
- e. Intelligence of ministries/non-ministerial government agencies.

SECTION III

STATE INTELLIGENCE MANAGEMENT

Part One

General

Article 8

State Intelligence is carried out by:

- a. State Intelligence institution at home and abroad;
- b. State Intelligence institution for defense and/or military
- c. State Intelligence institution for police duties;
- d. State Intelligence institution for law enforcement, and

- e. State Intelligence institutions for ministries/non-ministerial government agencies.

Part Two

State Intelligence Institutions

Article 9

State Intelligence institutions consist of:

- a. The State Intelligence Agency;
- b. Intelligence of the Indonesian Armed Forces;
- c. Intelligence of the Indonesian National Police;
- d. Intelligence of the Attorney General's Office of the Republic of Indonesia; and
- e. Intelligence of ministries/non-ministerial government agencies.

Paragraph 1

The State Intelligence Agency

Article 10

- (1) The State Intelligence Agency referred to in Article 9 letter a is a state apparatus that performs Intelligence functions at home and abroad.
- (2) The function of Intelligence referred to in paragraph (1) is carried out in accordance with the provisions of the legislation.

Paragraph 2

Intelligence of the Indonesian Armed Forces

Article 11

- (1) Intelligence of the Indonesian Armed Forces as referred to in Article 9 letter b performs the functions of defense and/or military Intelligence.
- (2) The function of Intelligence referred to in paragraph (1) is carried out in accordance with the provisions of the legislation.

Paragraph 3

Intelligence of the Indonesian National Police

Article 12

- (1) Intelligence of the Indonesian National Police as referred to in Article 9 letter c performs the functions of police Intelligence.
- (2) The function of Intelligence referred to in Paragraph 1 is carried out in accordance with the provisions of the legislation.

Paragraph 4

Intelligence of the Attorney General's Office of the Republic of Indonesia

Article 13

- (1) Intelligence of the Attorney General's Office of the Republic of Indonesia as defined in Article 9 letter d performs the functions of law enforcement Intelligence.
- (2) The function of Intelligence referred to in Paragraph 1 is carried out in accordance with the provisions of the legislation.

Paragraph 5

Intelligence of Ministries/Non-ministerial Government Agencies

Article 14

- (1) Intelligence of ministries/non-ministerial government agencies as referred to in Article 9 letter e performs the functions of Intelligence of ministries/non-ministerial government agencies.
- (2) The function of Intelligence referred to in Paragraph 1 is carried out in accordance with the provisions of the legislation.

Paragraph 6

Rehabilitation, Compensation, and Restitution

Article 15

- (1) Every Person adversely affected by the implementation of the functions of the Intelligence may apply for rehabilitation, compensation, and restitution.
- (2) The application referred to in Paragraph 1 is carried out in accordance with the provisions of the legislation.

SECTION IV

STATE INTELLIGENCE PERSONNEL

Part One

General

Article 16

State Intelligence Personnel are Indonesian citizens who meet the requirements specified in existing laws and hired by officials with authority to serve in the intelligence services.

Part Two

Rights and Obligations

Article 17

All State Intelligence Personnel are entitled:

- a. to receive protection in carrying out tasks, efforts, work, activities, and functions of State Intelligence;
- b. to receive protection for their families when the State Intelligence Personnel are carrying out tasks, efforts, work, activities, and functions of State Intelligence, and
- c. to receive continuing and advancing Intelligence education, training, and assignments.

Article 18

All State Intelligence Personnel have the obligation to:

- a. take and obey the State Intelligence oath or pledge;
- b. conceal the entire efforts, work, activities, Targets, information, special facilities, special equipment and tools, support, and/or State Intelligence Personnel related to carrying out State Intelligence functions and activities;
- c. comply with the State Intelligence Code of Ethics; and
- d. carry out the duties and functions in accordance with the provisions of the legislation.

Part Three

State Intelligence Oath or Pledge

Article 19

(1) Prior to being hired as a State Intelligence Personnel, every State Intelligence Personnel candidate must take a State Intelligence oath or pledge based on each person's religion or belief.

(2) Oath or pledge as referred to in paragraph (1) reads as follows:

"In the name of God I swear or I pledge:

That I will be loyal to the Unitary State of Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic Indonesia.

That I will uphold human rights, democracy, and rule of law.

That I will carry out duties and powers of my profession earnestly, meticulously, objectively, courageously, and professionally.

That I will uphold the State Intelligence Code of Ethics in every location, time and situation.

That I that I will never give up carrying out all the duties and obligations of my job.

That I will hold tight every secret State Intelligence in any kind of situation."

Part Four

State Intelligence Code of Ethics and Honorary Council

Article 20

- (1) In carrying out their duties, State Intelligence Personnel are bound by the State Intelligence Code of Ethics.
- (2) The State Intelligence Code of Ethics as referred to in paragraph (1) is composed by the State Intelligence Agency.

Article 21

- (1) The State Intelligence Honorary Council will supervise the implementation of the State Intelligence Code of Ethics.
- (2) The State Intelligence Honorary Council as referred to in paragraph (1) is formed by the respective institutions of the State Intelligence and is *ad hoc* in nature.
- (3) The State Intelligence Honorary Council as referred to in paragraph (1) has the power to investigate and adjudicate cases of violations of the State Intelligence Code of Ethics committed by State Intelligence Personnel.
- (4) The rules on the composition and administration of the State Intelligence Honorary Council as referred to in paragraph (1) shall be further regulated in the Regulations of the Chief of the State Intelligence Agency.

Part Five

Recruitment and Professional Development

Paragraph 1

Recruitment

Article 22

(1) Recruitment of human resources of the State Intelligence consists of:

- a. The State Intelligence Agency personnel are graduates from the State Intelligence College and the institutions of State Intelligence as defined in Article 9 letters b, c, d, and e, as well as individuals that meet the requirements, and
- b. State Intelligence institutions as referred to in Article 9 letters b, c, d, and e are the civil servants in each of the State Intelligence institutions.

(2) Recruitment of human resources as referred to in paragraph (1) is conducted in accordance with requirements and through a selection process in accordance with regulations of each State Intelligence institution.

Paragraph 2

Professional Development

Article 23

- (1) Development of professional capabilities of State Intelligence Personnel is conducted through continuing and advancing Intelligence education, training, and assignments.
- (2) Development of professional capabilities as referred to in paragraph (1) shall be further regulated in accordance with the regulation of each State Intelligence institution.

Part Six

Protection of State Intelligence Personnel

Article 24

- (1) The State shall provide protection for State Intelligence Personnel in carrying out Intelligence duties and functions.
- (2) Protection as referred to in paragraph (1) covers protection for individuals and their family members.

SECTION V
CONFIDENTIALITY OF INTELLIGENCE

Article 25

- (1) Intelligence Secret is part of state secrets.
- (2) Intelligence Secret as referred to in paragraph (1) is categorized to be able:
- a. to endanger state security and defense;
 - b. to reveal Indonesia's natural resources that are categorized as confidential;
 - c. to be detrimental to national economic security;
 - d. to be detrimental to the interests of foreign policy and foreign relations;
 - e. to reveal memoranda or letters that are by their nature need to be kept secret;
 - f. to endanger the State Intelligence system;
 - g. to jeopardize accesses, agents, and sources related to the implementation of the Intelligence functions;
 - h. to endanger the safety of State Intelligence Personnel; or
 - i. to reveal the plans and activities related to the implementation of the Intelligence functions.

(3) Intelligence Secret as referred to in paragraph (1) has a Retention Period.

(4) The Retention Period as referred to in paragraph (3) is valid for 25 (twenty-five) years and can be extended after receiving approval from the House of Representatives of the Republic of Indonesia.

(5) Intelligence Secret may be opened before its Retention Period expires for the purpose of legal proceeding and it is restricted in nature.

Article 26

Every Person is prohibited to open and/or leak Intelligence Secret.

SECTION VI

THE STATE INTELLIGENCE AGENCY

Part One

Position

Article 27

The State Intelligence Agency as referred to in Article 9 letter a serves under and answers to the President.

Part Two

Functions

Article 28

- (1) The State Intelligence Agency performs Intelligence functions as referred to in Article 6 at home and abroad.
- (2) In addition to the functions as referred to in paragraph (1), the State Intelligence Agency performs the coordinating function of State Intelligence.

Part Three

Duties

Article 29

The State Intelligence Agency as referred to in Article 10 paragraph (1) has the following duties:

- a. to undertake review and formulation of national policies on Intelligence;
- b. to deliver Intelligence products for consideration in setting government policies;
- c. to plan and execute Intelligence activities;
- d. to make recommendations on foreign persons and/or institutions; and
- e. to give consideration, suggestions, and recommendations on the safety of governance.

Part Four

Powers

Article 30

In order to carry out the duties as referred to in Article 29, the State Intelligence Agency has the powers:

- a. to formulate comprehensive plans and national policies on Intelligence;
- b. to request information materials to ministries/non-ministerial government agencies and/or other agencies based on interests and priorities;
- c. to conduct Intelligence cooperation with other countries, and
- d. to form a task force.

Article 31

In addition to the authorities as referred to in Article 30, State Intelligence Agency has the powers to conduct wiretapping, examine flow of funds, and extract information on Targets, which are related to:

- a. activities that threaten national interests and security, which include ideology, politics, economy, socio-culture, defense and security, and other sectors of public life, including food, energy, natural resources and environment; and / or

- b. acts of terrorism, separatism, espionage, and sabotage that threaten national safety, security, and sovereignty, including persons that go through legal process.

Article 32

- (1) Wiretapping as referred to in Article 31 is conducted based on legal regulations.
- (2) Wiretapping of Targets, which have been indicated as referred to in Article 31, is carried out by the following provisions:
 - a. for the implementation of the Intelligence function;
 - b. on the orders of the Chief of the State Intelligence Agency, and
 - c. wiretapping period is up to 6 (six) months and may be extended as needed.
- (3) Wiretapping of Targets who already have sufficient preliminary evidence is conducted with the permission of a head of the district court.

Article 33

- (1) Examination of the flow of funds as referred to in Article 31 is performed with the following provisions:
 - a. for performing Intelligence function, and
 - b. on the orders of the Chief of the State Intelligence Agency.
- (2) In conducting the examination on the flow of funds as referred to in paragraph (1), Bank Indonesia, banks, financial service providers or

institutions of financial transaction analysis shall provide information to the State Intelligence Agency.

Article 34

(1) Information gathering as referred to in Article 31 is conducted with the following provisions:

- a. for performing Intelligence function;
- b. on the orders of the Chief of State Intelligence Agency;
- c. without making arrests and/or detentions; and
- d. cooperation with related law enforcement agencies.

(2) In conducting information gathering as referred to in paragraph (1), related law enforcement agencies shall assist the State Intelligence Agency.

Part Five

Organization

Article 35

(1) The State Intelligence Agency is led by a Chief and assisted by a Deputy Chief.

(2) The appointment and dismissal of the Chief and Deputy Chief of the State Intelligence Agency is stipulated by Presidential Decrees.

Article 36

(1) The Chief of the State Intelligence Agency as referred to in Article 35 is appointed and dismissed by the President after being approved by the House of Representatives of the Republic of Indonesia.

(2) In order to appoint the Chief of the State Intelligence Agency as referred to in paragraph (1), the President proposes one candidate to get the approval of the House of Representatives of the Republic of Indonesia.

(3) Hearing for the approval of the House of Representatives concerning the prospective Chief of the State Intelligence chosen by the President shall be submitted no later than 20 (twenty) working days, excluding the recess, starting since the submission for hearing concerning the candidate for the Chief of State Intelligence is received by the House of Representatives of the Republic of Indonesia.

Article 37

Further provisions on the organization and functioning of the State Intelligence Agency is stipulated by Presidential Decrees.

SECTION VII

COORDINATION OF STATE INTELLIGENCE

Article 38

- (1) The State Intelligence Agency as referred to in Article 9 letter a serves as the organizing coordinator of State Intelligence.
- (2) The institutions of State Intelligence as referred to in Article 9 letters b, c, d, and letter e shall coordinate with the State Intelligence Agency.
- (3) The provisions concerning the State Intelligence coordination is stipulated by Presidential Decrees.

Article 39

The State Intelligence Agency in its capacity as the organizing coordinator of State Intelligence as referred to in Article 38 paragraph (1) performs the following duties:

- a. to coordinate State Intelligence management;
- b. to integrate Intelligence products;
- c. to report the management of State Intelligence coordination to the President; and
- d. to organize and coordinate Intelligence concerning the security of the national leadership.

Article 40

In order to carry out duties as referred to in Article 39, the State Intelligence Agency has the powers:

- a. to coordinate policies on Intelligence;
- b. to coordinate the implementation of Intelligence functions with State Intelligence institutions;
- c. to organize and manage the State Intelligence system;
- d. to specify the classification of Intelligence Secret; and
- e. to foster the use of Intelligence equipment and material.

SECTION VIII

FUNDING, ACCOUNTABILITY AND OVERSIGHT

Part One

Financing

Article 41

The necessary funding for the functioning of State Intelligence comes from the State Budget.

Part Two

Accountability

Article 42

- (1) The report and accountability of State Intelligence institutions as referred to in Article 9 letter a are communicated in writing to the President.
- (2) The report and the accountability of State Intelligence institutions as referred to in Article 9 letters b, c, d, and e are communicated in writing to their respective chiefs.

Part Three

Oversight

Article 43

- (1) Internal oversight on each of State Intelligence institutions is conducted by their respective chiefs.
- (2) External oversight on State Intelligence institutions is conducted by a special committee of the House of Representatives of the Republic of Indonesia in charge of Intelligence field.
- (3) In conducting oversight as referred to in paragraph (2), the committee shall form a permanent monitoring team consisting of the House of Representatives of the Republic of Indonesia fraction representatives and the chairman of committee on Intelligence; and its membership is ratified and sworn in the Plenary Session of the House of Representatives of the Republic of Indonesia with the condition to protect the confidentiality of Intelligence Secret.

- (4) Further provisions on the establishment of the permanent monitoring team as referred to in paragraph (3) are further stipulated in legal regulation.

SECTION IX

PENALTY PROVISIONS

Article 44

Every Person who deliberately steals, reveals, and/or leaks Intelligence Secret as referred to in Article 26 is punishable with a maximum jail sentence of 10 (ten) years and/or a maximum fine of Rp. 500,000,000 (five hundred million rupiahs).

Article 45

Every Person who through negligence causes the leakage of Intelligence Secret as referred to in Article 26 is punishable with a maximum jail sentence of 7 (seven) years and/or a maximum fine of Rp. 300,000,000 (three hundred million rupiahs).

Article 46

- (1) Every State Intelligence Personnel who reveals the efforts, work, activities, Targets, information, special facilities, special tools and

equipment, support, and/or State Intelligence Personnel related to the conduct of functions and activities of State Intelligence as referred to in Article 18 letter b is punishable with a maximum jail sentence of 10 (ten) years and/or a maximum fine of Rp. 500,000,000 (five hundred million rupiahs).

(2) If the criminal offense as referred to in paragraph (1) is carried out by the State Intelligence Personnel in time of war, the person can receive an additional one-third of each maximum penalty.

Article 47

Every State Intelligence Personnel who conducts wiretapping outside the functions of investigation, security and support as referred to in Article 32 is punishable with a maximum jail sentence of 5 (five) years and/or a maximum fine of Rp. 500,000,000 (five hundred million rupiahs).

SECTION X

CLOSING PROVISIONS

Article 48

Regulations for implementing this Law shall be established within 1 (one) year after the enactment of this Law.

Article 49

When this Law comes into force, all applicable legal regulations related to State Intelligence are still in force as long as they do not contradict the provisions in this Law.

Article 50

This Law shall come into force on the date of enactment.

For public cognizance, this Law is ordered to be added into the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

on

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Signed,

SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta

on

THE MINISTER OF JUSTICE AND HUMAN RIGHTS

THE REPUBLIC OF INDONESIA

Signed,

PATRIALIS AKBAR

THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA

NUMBER ...YEAR ...

EXPLANATION FOR
THE REPUBLIC OF INDONESIA DRAFT LAW
NUMBER ... YEAR ...
ON
STATE INTELLIGENCE

I. GENERAL

Preamble to the 1945 Constitution of the Republic of Indonesia Year states in the fourth paragraph that the formation of Indonesian government is to protect each and every Indonesian citizen, advance general prosperity, enlighten the life of the nation and help maintain a global order based on independence, lasting peace and social justice, which are always sought after in the realms of social life, nation and state.

In order to achieve these objectives, the state must be able to develop a national system that includes national welfare system, national economic system, national political system, national education system, national legal and judicial system, national health service system, and national security system.

National security is a dynamic condition on the part of the nation and the Unitary State of the Republic of Indonesia to ensure the safety, peace, and welfare of citizens, society and nation, the protection of state sovereignty and territorial integrity and the viability of national development free from all threats.

Academically, national security is seen as a multidimensional concept that has four interconnected dimensions, i.e., dimension of human security, dimension of public security and order, dimension of domestic security, and dimension of defense.

In the realms of society, nation, and state, Article 28J of the 1945 Constitution of the Republic of Indonesia states that Every Person shall respect

the human rights of others in society, nation and state. Therefore, in exercising the rights and freedoms, Every Person shall be subject to restrictions determined by law solely for the purpose of ensuring the recognition and respect for the rights and freedoms of others and the sense of fairness in accordance with moral consideration, religious values, security and public order in a democratic society.

Efforts to fulfill the objective of forming the government of Indonesian nation, the establishment of sovereignty, national integrity, territorial integrity of the Unitary State of the Republic of Indonesia, and dynamic national stability are key requirements. However, along the way, the process of globalization has resulted in the emergence of new phenomena that may have positive impacts facing the Indonesia nation, such as democratization, respect for human rights, demands for the rule of law, transparency, and accountability. Such phenomena may also have negative impacts that are detrimental to the nation and state, which in turn can lead to threats to national interests and security.

Threats are diverse in nature, i.e., physical or non-physical, conventional or non-conventional, global or local, immediate or future, potential or actual, military or non-military, directly or indirectly, foreign or domestic, armed or non-armed.

Threats to human security include economy, food, health, environment, personnel, community, and politics. Threats to public order and safety include common crime and transnational organized crime. Threats to domestic security include separatism, terrorism, espionage, sabotage, political violence, horizontal conflict, information warfare, cyber warfare, and national economy. Threats to defense include unlimited war, limited war, border conflict, and territorial violation.

It is worth mentioning that the Threats to national interests and security are less traditional and more non-traditional in nature. The nature of Threats has experienced a paradigm shift, i.e., they include not only internal Threats

and/or external Threats that are symmetric (conventional), but also asymmetric (unconventional) ones, which are global in nature and difficult to identify and categorized as Threat from outside or from within. Their forms and characteristics have also become multidimensional. Therefore, the identification and analysis of Threats should be made more comprehensive, both in the aspects of source, form and characteristic, inclination, as well as in accordance with condition of strategic environment dynamics.

Efforts to assess Threats may be successfully fulfilled if State Intelligence, as the first-line defense in the national security system, is capable of performing early detection and early warning against various forms and characteristics of Threats, whether potential or actual. In order to achieve this, State Intelligence Personnel must have the attitudes and actions that are professional, objective, and neutral. Such attitudes and actions reflect State Intelligence Personnel that are independent and impartial since any action is based on facts and they neither are affected by personal or group interests nor rely on other parties, but solely for the benefit of the nation.

State Intelligence as the Intelligence institution has been around since the early establishment of the government of the Republic of Indonesia and it is an integral part of the national security system that has the powers to perform the functions and activities of Intelligence under the provisions of the legislation.

A universal understanding of Intelligence includes:

- a. knowledge, information that has been processed as material for policy and decision-making;
- b. organization, a body entrusted with duties and powers to perform Intelligence functions and activities, and
- c. activity, any effort, job, task, and action in performing the functions of investigation, security, and support.

The conduct of Intelligence functions and activities - i.e., investigation, security, and support - uses the working methods such as surveillance, tracking, surveillance, surreptitious entry, wiretapping, early prevention and deterrence, as well as propaganda and psychological warfare. For the time being, the existence and conduct of State Intelligence has not been stipulated by any law.

State Intelligence institutions consist of national State Intelligence institution (the State Intelligence Agency), Intelligence institutions of state apparatuses, and Intelligence institutions of ministries/non-ministerial government agencies.

In order to establish synergy between all State Intelligence institutions and present integral and comprehensive Intelligence, the conduct of State Intelligence is coordinated by the State Intelligence Agency.

State Intelligence's presence and activities cannot be separated from confidentiality issues. In this Law, Intelligence Secret is part of state secrets and the former has a Retention Period.

In order to support Intelligence activities that act fast, precise, and accurate, the State Intelligence Agency is authorized to perform wiretapping, examine flow of funds, and extract information on any person associated with terrorism, separatism, espionage, and sabotage, which threaten the security, sovereignty, and safety of the Republic of Indonesia.

In order to fulfill the accountability of conduct on the part of State Intelligence, external oversight by the House of Representatives of the Republic of Indonesia is carried out by a special commission on Intelligence and the latter can form a permanent monitoring team.

The existence of the Law on State Intelligence as a legal umbrella guarantees the overall activities of State Intelligence, thus making its personnel to be professional within themselves, organizations, and in exercising their

duties; as well as always prioritizing democratic values and respect for law and human rights as a form of accountability for the conduct of State Intelligence to community, nation and state.

II. ARTICLE-BY-ARTICLE EXPLANATION

Article 1

Self-explanatory.

Article 2

Letter a

What is meant by "principle of professionalism" is that in performing his/her duties and functions, each State Intelligence Personnel has the expertise, capability, and commitment according to his/her profession.

Letter b

What is meant by "confidentiality" is that in performing duties and functions, Intelligence activities are covert in nature.

Letter c

What is meant by "principle of compartmentalization" is that in performing duties and functions, Intelligence activities are separate from each other, and only known by the respective units.

Letter d

What is meant by "principle of coordination" is harmonization process of functional relationship, synchronization effort as well as synergy in the conduct of an Intelligence activity to achieve its objectives.

Letter e

What is meant by "principle of integrity" is the attitude of Intelligence institution based on sincerity, honesty, loyalty, and commitment to achieve coherence, unity, and wholeness.

Letter f

What is meant by "principle of neutrality" is a trait or attitude of being impartial, free from any influence, including in political life, party, class, understand, beliefs, and personal interests, thus solely devoted for the sake of nation and state.

Letter g

What is meant by "principle of accountability" is that any Intelligence activity is calculated and accountable in accordance with democratic principles and legal regulation.

Letter h

What is meant by "principle of objectivity" is the attitude and action based on facts and not influenced by opinion, judgment, and personal or group interests.

Article 3

What is meant by "first line" is that it is the vanguard in national security system by providing Intelligence quickly, precisely, and accurately in order to preserve and defend the sovereignty and integrity of the Unitary State of the Republic of Indonesia.

Article 4

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Paragraph (1)

The functions of State Intelligence are performed by various government institutions in accordance with their respective duties. Therefore, not every State Intelligence institution performs the three Intelligence functions.

Paragraph (2)

Self-explanatory.

Paragraph (3)

What is meant by "security" includes security in the sense of internal security (organic function) and security in the sense of counter-Intelligence.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article 7

Self-explanatory.

Article 8

Self-explanatory.

Article 9

Self-explanatory.

Article 10

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.

Article 13

Self-explanatory.

Article 14

Self-explanatory.

Article 15

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Self-explanatory.

Article 18

Self-explanatory.

Article 19

Paragraph (1)

Self-explanatory.

Paragraph (2)

Oath begins and ends with valid sentences according to their respective religions and beliefs.

Article 20

Paragraph (1)

Self-explanatory.

Paragraph (2)

State Intelligence Code of Ethics established by the State Intelligence Agency are generally used as a guide for preparing the professional code of ethics for State Intelligence institutions.

Article 21

Self-explanatory.

Article 22

Self-explanatory.

Article 23

Self-explanatory.

Article 24

Paragraph (1)

What is meant by "protection" includes protection of safety and welfare.

- a. Protection of security is conducted if State Intelligence Personnel:
 1. is identified;
 2. is captured; and/or
 3. testifies in court proceedings.

The testimony of State Intelligence Personnel takes place under forced circumstances if other evidence is not being met. The testimony is given in writing under oath and read by the prosecutor.

- b. Protection of welfare is conducted if State Intelligence Personnel:
 1. dies, passes away, or killed;
 2. is missing; and/or
 3. is permanently disabled in accordance with provisions.

Paragraph (2)

What is meant by "family" is:

- a. wife, husband, and child, for those who are married, and
- b. biological parents for those who are unmarried.

Article 25

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Retention Period also covers the existing Intelligence Secret. It comes into effect since this Law is enacted.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Retention Period is valid again after the court process is completed.

Article 26

Self-explanatory.

Article 27

Self-explanatory.

Article 28

Paragraph (1)

What is meant by "performs Intelligence functions at home and abroad" includes forming structural organization units in outlying regions and representatives overseas.

Paragraph (2)

What is meant by "performs the coordinating function of State Intelligence" is that at the central level it is carried out by the Chief of the State Intelligence Agency, and at the regional level it is carried out by the respective Chiefs of the State Intelligence Agency in the outlying regions.

Article 29

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Self-explanatory.

Letter d

Contains recommendations for the approval or rejection of a person and/or a foreign institution that aspires to become an Indonesian citizen, settle, visit, work, research, learn, or set up a representative in Indonesia, and financial transactions that could potentially threaten national security and interests.

Letter e

What is meant by “give consideration, suggestions, and recommendations on the safety of governance” is related to:

1. appointment, transfer and dismissal of echelon I officials;
2. granting access to state secrets; and
3. internal security that includes information security, State Intelligence Personnel, and material.

Article 30

Self-explanatory.

Article 31

Self-explanatory.

Article 32

Paragraph (1)

What is meant by "wiretapping" is an activity that listens, records, redirects, modifies, inhibits, and/or records electronic information transmission and/or electronic documents, both using wired network and wireless network communications, such as electromagnetic emission or radio frequency, and checking package, mail, correspondence and other documents.

What is meant by "legislation" is this Law.

The results are used only for Intelligence purpose and not for publication.

Paragraph (2)

Self-explanatory.

Paragraph (3)

The process of appointing the chairperson of the district court as previously mentioned follows the principles of rapidity and confidentiality.

Article 33

Paragraph (1)

Self-explanatory.

Paragraph (2)

The definition of "Financial Services Providers" is finance company, insurance company and brokerage, pension funds of financial institution, stock brokerage company, investment manager, custodian, trustee, post office as a provider of fund transfer service, foreign exchange trader, provider of charge cards, e-money and/or e-wallet provider, cooperative that serves savings and loans, mortgage, corporation engaged in trading of commodity futures, or fund transfer service.

The data given by bank to the State Intelligence Agency is Intelligence Secret.

Article 34

Paragraph (1)

What is meant by "extracting information" is the last attempt to get more complete and accurate information - as a follow-up to the previously obtained information - such as through surveillance, tracking, monitoring, surreptitious entry, checking the flow of funds, or interception.

Paragraph (2)

Self-explanatory.

Article 35

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Self-explanatory.

Article 38

Self-explanatory.

Article 3

Self-explanatory.

Article 40

Self-explanatory.

Article 41

Self-explanatory.

Article 42

Self-explanatory.

Article 43

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Intelligence Secret may be opened for the purpose of oversight by the monitoring team of the House of Representatives of the Republic of Indonesia and it is exclusionary in nature.

Paragraph (4)

Self-explanatory.

Article 44

Self-explanatory.

Article 45

Self-explanatory.

Article 46

Self-explanatory.

Article 47

Self-explanatory.

Article 48

Self-explanatory.

Article 49

Self-explanatory.

Article 50

Self-explanatory.

ADDITION TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA

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