

[NSL p. 563. Insert after Note 7.]

8. *Covert Action and Cyber Operations*. As declared in the *Department of Defense Cyber Strategy 2018* and reinforced with statutory authority in the FY2019 National Defense Authorization Act, casebook pp. 428-431, the United States promises to “defend forward to disrupt or halt malicious cyber activity at its source, including activity that falls below the level of armed conflict.” *Cyber Strategy* at 1. In July 2020, a news report indicated that around the time of issuance of the new strategy and enactment of new statutory cyber authority, President Trump signed a sweeping intelligence finding granting the CIA express authorization to conduct its own cyber operations without requiring further White House or National Security Council approval. Like the *Cyber Strategy* and FY2019 NDAA, the finding reportedly authorized offensive cyber operations directed at “a handful of adversarial countries,” including Russia, China, and North Korea. Zach Dorfman et al., *Exclusive: Secret Trump Order Gives CIA More Powers to Launch Cyberattacks*, Yahoo News, July 15, 2020, <https://news.yahoo.com/secret-trump-order-gives-cia-more-powers-to-launch-cyberattacks-090015219.html>. Since the finding was signed in 2018, according to the report, the CIA has carried out at least a dozen cyber operations. *Id.*

How will the CIA operations avoid conflict with Defense Department “defending forward” cyber operations? How will Congress conduct oversight of the CIA operations if the finding identifies neither an enemy nor a set of objectives?