



DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF, G-2
1000 ARMY PENTAGON
WASHINGTON, DC 20310-1000

DAMI-CD

15 May 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Procedures for Army Implementation of Intelligence Community Policy Guidance 107.1, Requests for Identities of U.S. Persons in Disseminated Intelligence and Counterintelligence Reports

1. References.

a. Foreign Intelligence Surveillance Act (FISA) of 1978, as amended, 50 U.S.C. section 1801, et seq.

b. Executive Order (EO) 12333 (United States Intelligence Activities), 4 December 1981, as amended.

c. Army Regulation 25-400-2 (The Army Records Information Management System (ARIMS)), 2 October 2007.

d. Annex A (Dissemination of Congressional Identity Information) of Intelligence Community Directive (ICD) 112 (Congressional Notification), 9 January 2017.

e. Intelligence Community Policy Guidance (ICPG) 107.1 (Requests for Identities of U.S. Persons in Disseminated Intelligence Reports), 11 January 2018.

2. Intent. To provide Army Intelligence personnel with guidance to implement ICPG 107.1 (reference 1e).

3. Purpose. This guidance, developed in consultation with the Director of National Intelligence (DNI), the Attorney General (AG), and the Secretary of Defense, implements ICPG 107.1. This guidance prescribes procedures and responsibilities for responding to a requesting entity, other than the U.S. Army intelligence elements for post-publication release and dissemination of masked U.S. person identity information contained in disseminated intelligence or counterintelligence reports.

4. Applicability. This guidance applies to all Army personnel performing intelligence activities under the authority of the Secretary of the Army. This guidance applies exclusively to requests from a requesting entity, other than the U.S. Army intelligence elements for post-publication release and dissemination of nonpublic U.S. person identity information that was masked in a disseminated Army intelligence or

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counterintelligence report. This guidance does not apply in circumstances where a U.S. person has consented to the dissemination of information or of communications to, from, or about the U.S. person. This guidance does not affect any minimization procedures established pursuant to the Foreign Intelligence Surveillance Act of 1978 (reference 1a), Executive Order (EO) 12333 (reference 1b), or other provisions of law. This guidance does not affect the requirements established in Annex A, Dissemination of Congressional Identity Information, of ICD 112, "Congressional Notification" (reference 1d).

5. Guidance.

a. With respect to requests covered by this guidance, the approval authority shall document, in writing, at the time of the request the following information:

(1) The name or title of the individual who is making the request in an official capacity on behalf of the requesting entity.

(2) Information that identifies the report serial number(s) or for un-serialized products and reports the document date, title, and originating Army organization that contain(s) the requested U.S. person identity information.

(3) The name or title of each individual who will receive the U.S. person identity information at the time of release.

(4) A fact-based justification describing why such U.S. person identity information is required by each individual identified in subparagraph 5.a.(3) to carry out the duties of the individual.

b. Requests covered by this guidance shall be approved only by Deputy Chief of Staff (DCS), G-2 or a designee to whom the DCS, G-2 has delegated such authority in writing. The approving official shall coordinate with the legal office advising him/her prior to releasing any requested U.S. person identity information. When an intelligence community (IC) element other than Army Intelligence originated information in an Army Intelligence report that is subject to a request that is covered by this guidance, the Army intelligence element receiving the request shall promptly refer the request to the IC element that masked the U.S. person identity information and inform the requestor of the referral.

c. The DCS, G-2 or a designee to whom the DCS, G-2 has delegated authority to approve the requests shall retain all records with respect to any request covered by this guidance, including the disposition of such requests, as required by The Army Records Information Management System (reference 1c), as permanent records.

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Active records shall be retained for not less than 5 years prior to being moved to archival status. Such records include, with respect to approved and denied requests, the name or title of the individual who approved or denied such requests.

d. In the event of exigent circumstances or where a delay could negatively impact intelligence activities, an immediate disclosure by the approving authority described in paragraph 5.b. to a requesting entity of U.S. person identity information may be approved based on the rationale provided by the requesting entity. The rationale may be provided orally or in writing. Within 5 business days after such a disclosure, the requesting entity shall provide the basis for making the request, in accordance with paragraph 5.a. of this guidance.

e. With respect to any request that is covered by this guidance that is made during a period beginning on the date of a general election for President of the United States of America and ending on the date on which such President is inaugurated:

(1) The Army shall require the individual of a requesting entity who is making the request to assert in writing whether or not he or she has knowledge or belief that any U.S. person identity information sought by the request is of an individual who is a member of the transition team as identified by the President-elect or Vice President-elect.

(2) The approving authority, described in paragraph 5.b., shall assert in writing whether or not, based on the face of the report(s) to which the request pertains, he or she has knowledge or reasonable belief that any U.S. person identity information sought by the request is of an individual who is a member of the transition team, as identified by the President-elect or Vice President-elect.

(3) The documentation required under paragraph 5a shall include such assertions made pursuant to subparagraphs 5.e.(1) and 5.e.(2).

(4) If a requesting entity has asserted that it has knowledge or belief pursuant to subparagraph 5.e.(1), or the approving authority as described in paragraph 5.b. has asserted that he or she has knowledge or reasonable belief pursuant to subparagraph 5.e.(2), the approval made pursuant to paragraph 5.a. shall be subject to the concurrence of the Army General Counsel (or in the absence of the General Counsel, the Principal Deputy Army General Counsel) that the dissemination of such U.S. person identity information is in accordance with the procedures under paragraph 5.a.

(5) Consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the DCS, G-2, in consultation with the DNI, shall notify

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the chairmen and ranking minority members of the congressional intelligence committees of any approval described in subparagraph 5.e. not later than 14 days after the date of such approval.

f. Not later than 1 March of each year, beginning in 2019, the DCS, G-2 shall submit to the DNI, the congressional intelligence committees, and, through the Department of Defense (DoD) Senior Intelligence Oversight Official to the Secretary of Defense, a report documenting the following information with respect to the preceding calendar year:

- (1) The total number of requests covered by this guidance that Army Intelligence received;
- (2) Of the total, the number of requests approved;
- (3) Of the total, the number of requests denied; and
- (4) For each number calculated under subparagraphs (1) through (3), the sum total by each requesting entity.

6. Roles and Responsibilities.

a. The DCS, G-2 shall:

- (1) Ensure that documentation for requests that are covered by this guidance includes information required by paragraph 5.a. and paragraph 5.f.(1), (2) and (3) and that such documentation is retained for not less than 5 years, as required by paragraph 5.c.;
- (2) Consider for approval, and approve as appropriate, or further delegate such authority to consider and approve as appropriate, requests that are covered by this guidance that meet the requirements as specified in paragraph 5.b.;
- (3) Ensure that approval of requests that are covered by this guidance are subject to General Counsel concurrence, as specified in paragraph 5.e.(4);
- (4) Notify the congressional intelligence committees of approval of requests that are covered by this guidance, as specified in paragraph 5.e.(5);
- (5) Annually submit a report to the DNI, the congressional intelligence committees, and, through the DoD Senior Intelligence Oversight Official to the Secretary of Defense, as specified in paragraph 5.f.;

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(6) Ensure that requesting entities, when submitting requests that are covered by this guidance, provide the information necessary for documentation as required by paragraph 5.a. and subparagraph 5.e.(1) & (3);

(7) Create and retain records as required by paragraph 5.c. and Army Records Management policy (reference 1c); and

(8) Compile and provide to the information necessary to fulfill the reporting requirement to the DNI, the congressional intelligence committees, and the Secretary of Defense, as specified in paragraph 5.f.

b. The Office of the General Counsel shall ensure that the General Counsel, or in the absence of the General Counsel, the Principal Deputy General Counsel, considers for concurrence, and as appropriate concurs on, requests that are covered by this guidance as specified in subparagraph 5.e.(4).

c. The Office of Army Congressional Legislation and Liaison shall transmit and ensure receipt by the congressional intelligence committees of Army Intelligence notifications relating to the approval of requests covered by this policy, as specified in subparagraph 5 e (5), and information necessary to fulfill the reporting requirement, as specified in paragraph 5.f.

d. The DCS, G-2 Civil Liberties, Privacy, and Transparency Official shall work with the DNI to review the reporting numbers in paragraph 5.f. and, consistent with the IC's Principles of Intelligence Transparency and, where appropriate, the requirements of EO 13526 to ensure the protection of national security information, shall report the total numbers submitted annually for inclusion in the Office of the Director of National Intelligence Annual Statistical Transparency Report.

7. Definitions.

a. Requesting entity: An entity of the U.S. Government or a state, local, tribal, or territorial government that makes a request that is subject to this guidance.

b. Masked: An enhanced safeguard for U.S. person identity information which uses alternative or generic wording to render the U.S. person identity information so that the reader may not ascertain the identity of that U.S. person.

c. U.S. person: As defined in section 3.5 of EO 12333 or section 101 of the Foreign Intelligence Surveillance Act of 1978, as appropriate.

d. Identity information: Information that identifies U.S. persons by name or by

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individually identifying titles or characteristics.

e. Exigent circumstances: Circumstances when there is a reasonable basis to believe that there is imminent danger to a person's life or physical safety, or when there are time-critical needs that pose significant risks to important U. S. interests.

8. The Office of the Deputy Chief of Staff, G-2 point of contact is Mr. Christopher M. Anderson, (703) 695-3069, or christopher.m.anderson78.civ@mail.mil.

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Deputy Chief of Staff, G-2

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