



3830

JAN 17 2019

## MEMORANDUM

From:   
R. P. HAYES, RDML  
COMDT (CG-2)

To: Distribution

Subj: PROCEDURES FOR HANDLING REQUESTS FOR IDENTITIES OF U.S.  
PERSONS IN DISSEMINATED INTELLIGENCE REPORTS

Ref: (a) National Security Act of 1947, as amended  
(b) Executive Order 12333  
(c) Intelligence Community Directive (ICD) 107, Civil Liberties and Privacy  
(d) Intelligence Community Policy Guidance (ICPG) 107.1, Requests for Identities of U.S. Persons in Disseminated Intelligence Reports  
(e) Coast Guard Intelligence Activities, COMDINST M3820.12 (series)  
(f) Coast Guard Intelligence Manual, COMDTINST M3800.6A

1. Purpose. In accordance with references (a) and (b) and other applicable provisions of law, as a member the Intelligence Community, the Coast Guard National Intelligence Element (NIE) collects, analyzes, produces, and disseminates foreign intelligence and counterintelligence. The dissemination of intelligence to officials who need information to protect the security of the nation and its allies must be done within the framework of protections and oversight that have been established to protect privacy and civil liberties. In accordance with reference (c) and as directed by reference (d), this memorandum implements the Coast Guard Head of Intelligence Element's binding procedures for handling requests for release of the identities of U.S. Persons originally omitted in disseminated intelligence reports. These procedures supplement references (e) and (f) until such time these procedures are incorporated therein.

2. Action. All Coast Guard Intelligence (CGI) personnel will comply with the provisions of these procedures. These procedures will be implemented in accordance with references (a) through (f) and other applicable laws, Executive orders, Presidential directives, and Intelligence Community (IC) Directives. While these procedures apply to disseminated Coast Guard NIE reports, Coast Guard LEIE personnel should be aware of the restrictions should they receive a request for a disseminated CG NIE report. Questions regarding the applicability of these procedures should be referred to Office of Information and Intelligence Law or the unit's servicing legal office.

3. Definitions. For the purposes of these procedures, the following definitions apply:

- a. Covered Request: A request for nonpublic identity information with respect to a known unconsenting U.S. person that was omitted from an intelligence report disseminated by the Coast Guard NIE.

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- b. Disseminating element: An element of the IC (including the Coast Guard NIE) that disseminates an intelligence report subject to a covered request.
  - c. Exigent circumstances: Circumstances where 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.
  - d. Identity Information: Information that is reasonably likely to identify one or more specific U.S. persons, including by name or by individually identifying titles or characteristics.
  - e. Originating element: An element of the IC (including the Coast Guard NIE) that originated information in a disseminated intelligence report subject to a covered request.
  - f. Requesting entity: An entity of the U.S. Government or a state, local, tribal, or territorial government that makes a covered request.
  - g. 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.
4. Procedures. The following procedures will be used by all CGI elements when responding to covered requests.
- a. Approving Officials. Only the Assistant Commandant for Intelligence (CG-2), the Deputy Assistant Commandant for Intelligence (CG-2d) in CG-2's absence, or the Chief, Office of Intelligence Plans and Policies (CG-25) in CG-2 and CG-2d's absence, will approve a covered request. These procedures constitute the Head of the Intelligence Community Element's written delegation to the above designees.
  - i. Legal Review. Before a decision by the approving official, the approval of a covered request will be reviewed by the Office of Information and Intelligence Law.
  - b. Coast Guard Not the Originating Element. When the Coast Guard NIE is not the originating element of the information, the approving official shall obtain the concurrence of the head or designee of the originating IC element before approving a covered request.
  - c. Routing and Approval of Covered Requests. Any CGI unit receiving a covered request will forward the request to CG-2 via CG-25. Except as outlined below, approval of the dissemination of the identity of a U.S. Person shall be made in writing.
  - d. Recording and Documenting Approval Decisions. The Coast Guard official approving the covered request shall document in writing each decision regarding a covered request using the example/template provided in enclosure (1). The documentation will include, at a minimum, the following information:

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- i. The name or title of the individual who is making the request in an official capacity on behalf of the requesting entity;
  - ii. Information that identifies the disseminated intelligence report containing the requested identity information;
  - iii. The name or title of each individual who will receive the U.S. person identity information sought;
  - iv. A fact-based justification describing why such U.S. person identity information is required by each individual in subparagraph (4.d.iii) above to carry out the individual's duties;
  - v. If the Coast Guard is not the originating IC element, document the concurrence of the head or designee of the originating element; and
  - vi. The name and title of the official who approved or denied the request.
- e. Exigent Circumstances Dissemination. In the event of exigent circumstances or where a delay could negatively impact intelligence activities, the approving official may approve immediate disclosure of U.S. person identity information to the requesting entity based on the rationale provided by the requesting entity. If needed in such circumstances, the approval may be made prior to legal review. In the event of a request for U.S. person identity information under this paragraph:
- i. The receiving Coast Guard NIE unit should contact the Commandant's Intelligence and Investigations Plot (CIIP), which will contact appropriate CG-2 and G-LII officials.
  - ii. The requesting entity's rationale may be provided in writing or orally.
  - iii. The approving official should condition approval on the requesting entity's agreement to provide the basis for making the request and providing the name and title of the person making the request, in writing, within 5 working days of the approval.
5. Specific Procedures for Requests Involving Electoral Transition Period. If a covered request is made during the period beginning on the date of a general election for President and ending on the date on which such President is inaugurated, the following additional procedures will be followed.
- a. Additional Documentation. In addition to the documentation required in paragraph 4.d, above, the approving official shall include whether:
    - i. The individual of a requesting entity who is making the request has conveyed the knowledge or belief that any U.S. person identity information sought by the request is

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- of an individual who is a member of the transition team as identified by the President-elect or Vice President-elect; or
- ii. Based on the disseminated intelligence report to which the request pertains, the disseminating or originating Coast Guard NIE knows or reasonably believes 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.
- b. Approval. Only the Assistant Commandant for Intelligence (CG-2) or the Deputy Assistant Commandant for Intelligence (CG-2d) may approve those covered requests subject to paragraph 5. The approving official will notify the DHS Undersecretary for Intelligence and Analysis of any such approval through appropriate means.
  - c. Chief Counsel Concurrence. The approving official's decision to approve a covered request involving the period identified in paragraph 5 of these procedures requires the concurrence of the Coast Guard Judge Advocate General (Chief Counsel) that the dissemination of such identity information is consistent with reference (d). In the Judge Advocate General's absence, the concurrence of the Deputy Judge Advocate General (Deputy Chief Counsel) or the Chief, Office of Information and Intelligence Law is required. Such requests should be routed to the Chief, Office of Information and Intelligence Law, who will be responsible for coordinating the required legal review.
  - d. Report to ODNI and Congress. With due regard for protecting from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the approving official, in consultation with the Director of National Intelligence, shall notify the chairmen and ranking minority members of the congressional intelligence committees of any approval governed by paragraph 5, not later than 14 days after the date of such approval.
6. Reporting and Retention Requirements.
- a. By 1 February of each year CG-25, with assistance from CG-LII, will prepare a consolidated report for CG-2's approval regarding received and approved covered requests from the preceding year. This report will include the following information:
    - i. Total number of covered requests received;
    - ii. Of the total number received, the number of requests approved;
    - iii. Of the total number received, the number of requests denied; and
    - iv. For each number calculated under paragraphs (i)-(iii), the sum total by each requesting entity.

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- b. CG-2 will provide the above report to the Director of National Intelligence, the Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence no later than 1 March of each year.
- c. Records Retention. Records documenting decisions of approval/disapproval of covered requests will be retained for not less than 5 years from the date of decision.

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Enclosure (1) Template for Determining Request for Identities of U.S. Persons in Intelligence Reports

Dist: COMDT (CG-094, CG-25, CG-2ECI, CG-LII) CG ICC, CG CG, CGCIS, CG LANT-2, CG MIFC LANT, CG MIFC PAC/PAC-2

CC: CGD ONE(dri), CGD FIVE (dri), CGD SEVEN(dri), CGD EIGHT(dri), CGD NINE(dri), CGD ELEVEN(dri), CGD THIRTEEN(dri), CGD FOURTEEN(dri), CGD SEVENTEEN(dri).

Example Memo Documenting Covered Request  
(Provided at appropriate classification level)

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
Assistant Commandant for Intelligence

2703 Martin Luther King Jr. Ave. SE  
Stop 7301  
Washington, DC 20593-7301  
Phone: (202) 372-2716  
Fax: (202) 372-2953

[date]

## MEMORANDUM

From: I. I. Name, RDML  
COMDT (CG-2)

To: [Coast Guard NIE Unit]

Subj: DETERMINATION ON REQUEST FOR IDENTITIES OF U.S. PERSONS  
(COVERED REQUEST) IN DISSEMINATED INTELLIGENCE REPORT

Ref: (a) Executive Order 12333  
(b) Intelligence Community Directive (ICD) 107, Civil Liberties and Privacy  
(c) Intelligence Community Policy Guidance 107.1, Requests for Identities of U.S. Persons in Disseminated Intelligence Reports  
(d) Coast Guard Intelligence Activities, COMDINST M3820.12 (series)  
(e) Coast Guard Intelligence Manual, COMDTINST M3800.6A  
(f) CG-2 memo XXXX dated XX Jan 19, "Procedures For Handling Request for Identities of U.S. Persons In Disseminated Intelligence Reports"

1. This determination is made in accordance with references (a) through (f).
2. On [date], [name] [title] [agency], made a request to the Coast Guard for the identity information of a U.S. person (covered request) for a previously disseminated intelligence report.
3. The disseminated intelligence report containing the requesting identity information is contained in [description and number of intelligence report, which readily identifies the disseminated intelligence report that contains the requested identity information].
4. The following individuals will receive the identity information of the U.S. person subject of this determination: [name] [title], [name] [title]...[name] [title].
5. The U.S. person identity information is provided to the people in paragraph 4 because: [A fact-based justification describing why such U.S. person identity information is required by each individual in subparagraph (3) above to carry out the individual's duties]
6. [If Applicable] Because the Coast Guard is not the originating element of the information, I have obtained the concurrence of [name, title, and element], the head or designee of the originating element, on [date].

Enclosure (1)

7. The identity information of the U.S. person described in this determination is [approved] [disapproved].
8. If this covered request is subject to paragraph 5 of reference (f), this request has been reviewed and concurred with by the Chief Counsel or designee.

Name & Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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RETAIN FOR FIVE (5) YEARS FROM DATE OF SIGNATURE.