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U.S. PERSONS IDENTITIES REQUESTS

DEPARTMENT OF ENERGY
OFFICE OF INTELLIGENCE AND COUNTERINTELLIGENCE

DOE-IN POLICY GUIDANCE
NUMBER 107.2



U.S. DEPARTMENT OF
ENERGY

Intelligence and
Counterintelligence

IMPLEMENTATION OF INTELLIGENCE COMMUNITY POLICY GUIDANCE 107.1,
REQUESTS FOR IDENTITIES OF U.S. PERSONS IN DISSEMINATED
INTELLIGENCE REPORTS
(Effective: 29 JANUARY 2019)

- A. SUMMARY:** The Office of Intelligence and Counterintelligence (DOE-IN) is committed to providing intelligence to officials within the framework of protections and oversight that has been established to protect privacy and civil liberties. This guidance implements the policies and procedures required by Intelligence Community Policy Guidance (ICPG) 107.1 *Requests for Identities of U.S. Persons in Disseminated Intelligence Reports*.
- B. REFERENCES:** The National Security Act of 1947, as amended; Executive Order 12333, *United States Intelligence Activities*, as amended; Presidential Memorandum for the Director of National Intelligence (9 January 2018); Intelligence Community Directive (ICD) 107, *Civil Liberties and Privacy*; ICPG 107.1, *Requests for Identities of U.S. Persons in Disseminated Intelligence Reports* (11 January 2018); the *Department of Energy Procedures for Intelligence Activities* (DOE Procedures) (approved by the Attorney General 17 January 2017); and other applicable provisions of law.
- C. PURPOSE:** This document provides implementing guidance for Intelligence Community Policy Guidance 107.1, *Requests for Identities of U.S. Persons in Disseminated Intelligence Reports*.
- D. APPLICABILITY:** DOE is an element of the IC, as defined by the National Security Act of 1947, as amended, and Section 3.5(h) of Executive Order 12333, as amended. These policies and procedures apply only to requests for U.S. persons identities redacted from DOE-IN disseminated intelligence reporting. This policy guidance applies to all components of DOE-IN, including headquarters, FIEs and CI Field Offices.

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E. DEFINITIONS.

1. **Disseminating Element**. An element of DOE-IN that disseminated an intelligence report subject to a covered request.
2. **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.
3. **Identity Information**. As defined by Section XIII.31 of the DOE Procedures for Intelligence Activities.
4. **Originating Element**. An element of the IC, outside of DOE, that originated information in a disseminated intelligence report subject to a covered request.
5. **Redacted**. The use of alternate or generic wording in data subject to dissemination that does not permit the reader to ascertain the identity of a U.S. person.
6. **Requesting Entity**. An entity of the U.S. Government or a state, local, tribal, or territorial government that makes a U.S. person identity request.
7. **U.S. Person**. As defined in section 3.5 of E.O. 12333, or section 101 of the Foreign Intelligence Surveillance Act of 1978, as appropriate.

F. POLICY.

1. A covered request may be approved only by the Director, DOE-IN or designee(s) to whom the Director, DOE-IN has delegated authority in writing.
2. A requesting entity must provide the following information, at a minimum, for a covered request:
 - a. The name or title of the individual who is making the request in an official capacity on behalf of the requesting entity;
 - b. Information that identifies the disseminated intelligence report containing the requested identity information (e.g., report serial number);
 - c. The name or title of each individual who will receive the U.S. person identity information sought by the covered request; and
 - d. A fact based justification describing why such U.S. person identity information is required by each individual described in Section F.2.c. to carry out the duties of the individual.

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3. Records of covered requests, including the disposition of such requests, must be kept for not less than 5 years. These records shall include the name or title of the individual from the disseminating element that approved or denied such requests.
4. In the event of exigent circumstances or where a delay could negatively impact intelligence activities, an immediate disclosure by an individual described in Section F.1. 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 Section F.2.
5. When the disseminating element is not the originating element, Director, DOE-IN or designee(s) shall obtain the concurrence of the head or designee of the originating element before approving a covered request.
6. If a covered request is made during a period beginning on the date of a general election for President and ending on the date on which such President is inaugurated:
 - a. The documentation under Section F.2 shall include whether:
 - (1) 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 of an individual who is a member of the transition team as identified by the President-elect or Vice President-elect; or
 - (2) Based on the disseminated intelligence report to which the request pertains, the disseminating or originating IC elements know or reasonably believe 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. The approval made pursuant to Section F.1. of a covered request that contains U.S. person identity information described in Section F.6. is subject to concurrence of the DOE General Counsel (or, in the absence of General Counsel, the Principal Deputy General Counsel, or, as applicable, the senior Departmental legal officer supporting DOE-IN) that the dissemination of such identity information is in accordance with the procedures under Section F.2.; and
 - c. 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, Director, DOE-IN, in consultation with the Director of National Intelligence (DNI), shall notify the chairmen and ranking minority members of the congressional

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intelligence committees of any approval described in Section F.6.b. not later than 14 days after the date of such approval.

7. Not later than February 1 of each year, beginning in 2020, all disseminating elements shall submit to Director, DOE-IN a report documenting the following information with respect to the preceding calendar year:
 - a. The total number of covered requests received;
 - b. Of such total, the number of requests approved;
 - c. Of such total number, the number of requests denied; and
 - d. For each number calculated under paragraphs a. through c., the sum total by each requesting entity.

G. ROLES AND RESPONSIBILITIES.

1. Director, DOE-IN shall:

- a. Consult with the DNI and the Attorney General on the development and maintenance of procedures to respond to covered requests;
- b. Unless otherwise delegated, oversee the proper documentation and retention for covered requests as described in Section F.2. and Section F.3.;
- c. Unless otherwise delegated, consider for approval, and approve as appropriate, covered requests that meet the requirements of this INPG;
- d. Ensure that approval of covered requests is subject to General Counsel concurrence, as specified in Section F.6.b.;
- e. Notify the congressional intelligence committees of approval of covered requests, as specified in Section F.6.c.; and
- f. Annually submit a report to the DNI and the congressional intelligence committees not later than March 1 of each year, beginning in 2020, on covered requests, as specified in Section F.7.

2. The disseminating element shall:

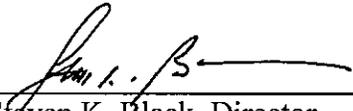
- a. Ensure that documentation for covered requests received from requesting entities includes information required by Section F.2.;
- b. Provide final approval/denial responses to requesting entities based on Director, DOE-IN, or delegate(s), decisions;

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- c. Maintain records for covered requests as described in Section F.3.; and
 - d. Annually submit a report to Director, DOE-IN as described in Section F.7.
- 3. The Principal Deputy Director, DOE-IN and the Deputy Directors, DOE-IN shall:**
- Oversee the implementation of this policy within their assigned areas of responsibility.
- 4. The Civil Liberties and Privacy Officer, DOE-IN shall:**
- Oversee and audit the process outlined in Section F to ensure compliance with ICPG 107.1 and the protection of civil liberties and privacy as they relate to operations within the DOE-IN enterprise.

H. EFFECTIVE DATE: This policy guidance is effective upon signature.

I. SIGNATURE AND DATE.



Steven K. Black, Director
Office of Intelligence and Counterintelligence
Department of Energy

1/29/2019

Date