

**U.S. Department of State
Bureau of Intelligence and Research
Intelligence Community Policy Guidance 107.1 Implementing Procedures**

Purpose: This document sets out the procedures that the State Department's Bureau of Intelligence and Research (INR) will follow in responding to requests for non-public identity information of U.S. persons that was minimized or masked in disseminated INR intelligence reports. Section E(1) of the Intelligence Community Policy Guidance (ICPG) 107.1, issued by the Director of National Intelligence (DNI) on January 11, 2018, calls for the head of each Intelligence Community (IC) element, in consultation with the DNI and the Attorney General (AG), to develop and maintain procedures to respond to such requests.

References:

1. The National Security Act of 1947, as amended
2. Executive Order (E.O.) 12333, as amended
3. Presidential Memorandum for the Director of National Intelligence (Jan. 9, 2018)
4. Intelligence Community Directive 107 and ICPG 107.1

Definitions: For purposes of these procedures, the term:

1. "Covered request" means a request submitted to INR for non-public identity information with respect to a known, unconsenting U.S. person that was "minimized" or "masked" in a disseminated INR intelligence report (typically by referring to the person as "USPER" rather than by name).
2. "Disseminating element" means an element of the IC that disseminated an intelligence report subject to a covered request.
3. "Exigent circumstances" means 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.
4. "Identity information" means information that identifies U.S. persons by name or by individually identifying titles or characteristics.
5. "Intelligence Community" or "IC" has the meaning given to the term in section 3.5 of E.O. 12333
6. "Originating element" means an element of the IC that originated information in a disseminated intelligence report subject to a covered request.
7. "Requesting entity" means an entity of the U.S. Government or a state, local, tribal, or territorial government that makes a covered request.
8. "U.S. person" has the same meaning it is given under section 3.5 of E.O. 12333 or section 101 of the Foreign Intelligence Surveillance Act of 1978, as appropriate.

Procedures:

When INR is a disseminating element, the following procedures will be used in responding to a covered request by a requesting entity, consistent with the requirements of section E(1) of ICPG 107.1:

1. Routine Requests

- a. INR will document in writing each covered request received including:
 - 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 U.S. person identity information;
 - iii. The name or title of each individual who will receive the U.S. person identity information sought by the covered request;
 - iv. A fact-based justification describing why such U.S. person identity information is required by each individual identified in subsection (iii) to carry out his/her official duties.
- b. Covered requests may be approved by the INR Assistant Secretary. When INR is not the originating element, the INR Assistant Secretary shall obtain the concurrence of the head of the originating element or the appropriate originating element designee before approving a covered request.
- c. INR will retain records on covered requests, including the disposition of such requests, for not less than 5 years. These records will include the name or title of the individual who approved or denied such requests.

2. Exigent Requests

- a. In the event of exigent circumstances, as defined above, or where a delay could negatively impact intelligence activities, an immediate disclosure by the INR Assistant Secretary to a requesting entity of U.S. person identity information may be approved. The requesting entity must provide a rationale, orally or in writing. Within 5 business days after such a disclosure, the requesting entity will provide the information required for a covered request under section 1(a).

3. Requests During a Presidential Transition

- a. 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, the following additional procedures will apply:
 - i. Documentation under section 1(a) 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, INR or the originating element 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.
 - ii. The Assistant Secretary for INR will obtain the concurrence of the Legal Adviser of the Department of State that the dissemination of such identity information is in accordance with the procedures under section 1(a) before approving a request that contains U.S. person identity information described in section 3(a)(i).
 - iii. 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 INR Assistant Secretary, in consultation with the DNI, shall notify the chairmen and ranking minority members of the congressional intelligence committees of any approval of a request that contains U.S. person identity information described in section 3(a)(i) not later than 14 days after the date of such approval.

Reporting

As required under section E(2) of ICPG 107.1, not later than March 1, 2019, and annually thereafter, the INR Assistant Secretary shall submit to the DNI and the congressional intelligence committees a report documenting the following information with respect to covered requests in the preceding calendar year:

- (1) The total number of covered requests received;
- (2) Of such total number, the number of requests approved;
- (3) Of such total number, the number of requests denied;
- (4) For each number calculated under (1)-(3) above, the sum total by each requesting entity.

Delegations

The functions of the Assistant Secretary for INR under these procedures may be performed by the Principal Deputy Assistant Secretary, or by another senior official under the Assistant Secretary's supervision to whom the functions have been delegated in writing. The

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functions of the Legal Adviser may be performed by other attorneys in the Office of the Legal Adviser as authorized by ICPG 107.1.

Approved: Ellen E. McCarthy
Ellen E. McCarthy
Assistant Secretary
Bureau of Intelligence and Research

Date: 15 Feb 2019

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