



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
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WASHINGTON DC 20350-2000

OPNAVINST 3830.3
N2N6
9 Sep 2019

OPNAV INSTRUCTION 3830.3

From: Chief of Naval Operations

Subj: REQUESTS FOR IDENTITIES OF UNITED STATES PERSONS IN DISSEMINATED INTELLIGENCE REPORTS

Ref: (a) Intelligence Community Policy Guidance 107.1, Requests for Identities of U.S. Persons in Disseminated Intelligence Reports of 11 January 2018
(b) 50 U.S.C. §1801
(c) E.O. 12333
(d) Intelligence Community Directive 112 of 29 June 2017
(e) SECNAVINST 5730.5K
(f) SECNAVINST 5730.13B

Encl: (1) Definition of Terms

1. Purpose. Per reference (a), this instruction implements Director of National Intelligence policy for responding to requests for the identities of U.S. persons that were originally omitted from disseminated intelligence reports.

2. Applicability

a. This instruction applies to all U.S. Navy commands and activities performing an intelligence mission under Secretary of the Navy authority.

b. This policy applies exclusively to requests from a requesting entity, other than U.S. Navy intelligence elements, for post-publication release and dissemination of nonpublic U.S. person identity information masked in a disseminated intelligence report. This policy does not apply in circumstances where a U.S. person has consented to the dissemination of information, or communications to, from, or about, the U.S. person.

c. This policy does not affect any minimization procedures established per references (b) and (c), or other provisions of law.

d. This policy does not affect the requirements established in reference (d).

3. Background

a. Reference (a) was issued in response to Presidential Memorandum for the Director of National Intelligence of 9 January 2018. This memorandum directed the issuance and public

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release of a policy requiring each element of the intelligence community (IC) develop and maintain procedures for responding to requests from Federal, State, local, tribal, or territorial government officials for non-public U.S. person identity information concerning known non-consensual U.S. persons that was originally omitted from disseminated intelligence reports.

b. Per reference (a), this instruction, and the definitions contained in enclosure (1), were developed in consultation with the Director of National Intelligence, the Attorney General, and the Secretary of Defense (SecDef).

4. Policy

a. Requests covered by this policy may only be approved by the Deputy Chief of Naval Operations for Information Warfare (CNO N2N6) and the Director of Naval Intelligence (DNI), or a designee to whom CNO N2N6 and DNI has delegated such authority in writing.

b. When an IC element other than Navy originated and masked information that is subject to a request covered by this policy, the Navy element receiving such request will forward the request to the originating IC element for further action and direct response to the requesting entity.

c. When a Navy command or activity masked information in a disseminated intelligence report that is subject to a request covered by this policy, the request will be processed as per the procedures in paragraph 6.

d. In the event of exigent circumstances or where a delay could negatively impact intelligence activities, an immediate disclosure by CNO N2N6 and DNI or a designee 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 must provide the basis for making the request, as per the procedures in paragraph 6.

e. Per reference (a), records pertaining to covered requests, to include the disposition of such requests, whether acted upon or forwarded to another command, activity, or IC element, must be retained for not less than 5 years.

5. Responsibilities

a. CNO N2N6 and DNI

(1) Ensure that documentation for requests covered by this policy received from requesting entities includes information required by subparagraph 6a, and, where applicable, subparagraph 6b, and that such documentation is retained for not less than 5 years, as required by reference (a).

(2) Consider for approval, and approve as appropriate, requests covered by this policy that meet the requirements in paragraph 6.

(3) Delegate in writing the specific authority to consider, and approve as appropriate, requests covered by this policy that meet the requirements in paragraph 6.

(4) Per subparagraph 6b(1)(d), ensure that, where appropriate, approval of requests that are covered by this policy are subject to Department of the Navy General Counsel concurrence.

(5) Per subparagraph 6b(1)(e), notify the congressional intelligence committees of approval of specified requests that are covered by this policy.

(6) Annually submit a report to DNI, the congressional intelligence committees, and SecDef, as per subparagraph 6c. With respect to the report to the SecDef, it will be staffed through the Department of Defense senior intelligence oversight official.

b. All Approving Authorities

(1) Ensure documentation for requests covered by this policy and received from requesting entities includes information required by subparagraph 6a, and, where applicable, subparagraph 6b, and that such documentation is retained for not less than 5 years, as required by reference (a).

(2) Consider for approval, and approve as appropriate, requests covered by this policy that meet the requirements in paragraph 6.

(3) Create and retain records as required by paragraph 7 and SECNAV Manual 5210.1, Department of the Navy Records Management Program Manual, of 20 January 2012.

c. All Commanding Officers

(1) Forward requests covered by this policy up the chain of command to the first CNO N2N6 and DNI designated approval authority. If no designated approval authority is in the chain of command at echelon 2 or below, forward covered request to CNO N2N6 and DNI.

(2) When forwarding requests covered by this policy to an approving authority, provide the information necessary for documentation as required by paragraph 6.

6. Action

a. Processing Requests

(1) Requests covered by this policy should be directed to the Navy command or activity that created the disseminated intelligence report that is the subject of the request. Where practicable, requests sent to the wrong command or activity will be promptly forwarded to the proper command, and the requestor will be informed of the referral. Where it is not practicable to forward such a request, it will be promptly be returned to the requestor.

(2) Upon proper receipt of a request, the command should ascertain whether the information being sought was masked by Navy, or whether it was masked by another IC element and then incorporated into a disseminated naval intelligence product. If the masking was done by another IC element, the command receiving the request will promptly forward the request to the originating IC element for a direct response to the requestor, and inform the requestor of the referral.

(3) With respect to requests covered by this policy, the receiving command must document in writing at the time of the request the information in the following subparagraphs 6a(3)(a) through 6a(3)(d).

(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(s) that contain(s) the requested U.S. person identity information.

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

(d) A fact-based justification describing why such U.S. person identity information is required by each individual identified above to carry out the duties of the individual.

(4) Once a command has gathered the required information, it will send the request and the accompanying information up the chain of command to first approval authority designated in writing by CNO N2N6 and DNI. If no one in the chain of command holds such authority, the request will be forwarded through the chain of command to CNO N2N6 and DNI.

(5) When considering a covered request, approving authorities will determine, on a person-by-person basis, if the requesting entity has provided sufficient fact-based justification as to why a particular individual needs access to the previously masked information to carry out

their duties. Approving authorities may approve or deny requests in whole or in part. When a request is being either approved or denied in its entirety, the approving authority may so state without the need to provide a detailed response.

(6) Prior to releasing U.S. person identity information pursuant to a covered request, approving authorities should consult with the legal office responsible for advising them to ensure compliance with all applicable laws and regulations.

(7) All actions on requests covered by this policy must be documented as per reference (a), and subparagraph 4e.

b. Special Circumstances Requests

(1) With respect to any request covered by this policy and 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 subparagraphs 6b(1)(a) through 6b(1)(e) apply.

(a) The approving authority must require the individual representing the requesting entity to assert in writing whether or not that individual 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.

(b) The approving authority (including CNO N2N6 and DNI, if he or she is the approving authority) must assert in writing whether or not, based on the face of the intelligence report(s) to which the request pertains, that individual 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.

(c) If either the requesting entity, or an approval authority other than CNO N2N6 and DNI, has asserted it 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, the request will be forwarded to CNO N2N6 and DNI for consideration and possible approval, as per the procedures in subparagraph 6a. If neither has such knowledge or belief, the designated approval authority may act on the request as per the procedures in subparagraph 6a.

(d) If either the requesting entity, or the approval authority, has asserted that it 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, CNO N2N6 and DNI's approval will be subject to the concurrence of the Department of the Navy General Counsel (or in the absence of the General Counsel, the Principal Deputy General Counsel) that the dissemination of such U.S. person identity information is as per applicable laws and procedures.

(e) 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, CNO N2N6 and DNI, in consultation with the DNI, and as per the procedures in references (e) and (f), must notify the chair and ranking minority members of the congressional intelligence committees of any approval described in subparagraph 6b(1)(c), not later than 14 days after the date of such approval.

c. Reporting Requirements

(1) Not later than 1 March of each year, CNO N2N6 and DNI will submit to the Director of National Intelligence, the congressional intelligence committees, and the SecDef a report documenting the information in the following subparagraphs 6c(1)(a) through 6c(1)(d) with respect to the preceding calendar year.

(a) The total number of covered requests received.

(b) Of the total, the number of requests approved.

(c) Of the total, the number of requests denied.

(d) For each number calculated under subparagraphs (a) through (c), the sum total by each requesting entity.

(2) Requests forwarded elsewhere for action, either because they were sent to the wrong command or activity, or because the identities of U.S. persons were masked by another IC element, should not be counted in these numbers.

(3) To facilitate the reporting required by this paragraph, each approving authority will, not later than 1 February of each year, forward to CNO N2N6 and DNI a report containing the information in subparagraph 6c(1) above.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned per the records disposition schedules located on the Department of the Navy/Assistant for Administration, Directives and Records Management Division portal page at <https://portal.secnave.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact the local records manager or the Department of the Navy/Assistant for Administration, Directives and Records Management Division program office.

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8. Review and Effective Date. Per OPNAVINST 5215.17A, CNO N2N6 and DNI will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.

9. Information Management Control. Data collection and reporting requirements contained within this instruction are exempt from information management control per SECNAV Manual 5214.1 of December 2005, part IV, subparagraphs 7i and 7o.



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Releasability and distribution:

This instruction is cleared for public release and is available electronically only via Department of the Navy Issuances Web site, <http://www.secnav.navy.mil/doni>

DEFINITION OF TERMS

1. 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.
2. Masked. An enhanced safeguard for U.S. person identifying information, which uses alternative or generic wording to render the U.S. person identifying information so that the reader may not ascertain the identity of that U.S. person.
3. 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 policy.
4. U.S. Person. As defined in section 3.5 of reference (c) or section 101 of the Foreign Intelligence Surveillance Act of 1978, as appropriate.
5. U.S. Person Identity Information. U.S. person information, as defined in DoD Manual 5240.01, Procedures Governing the Conduct of DoD Intelligence Activities, of 8 August 2016.