

[REDACTED]

(UNCLASSIFIED upon removal of classified attachment)

**(U) National Counterterrorism Center (NCTC)  
Compliance Incident Procedures  
Regarding Data Handling**

1. **(U) General**

a. **Background** Due to NCTC's broad access to information, the obligation to ensure that data is handled appropriately and in full compliance with applicable legal authorities and policies is especially vital. All NCTC personnel share the responsibility to ensure that the Center's efforts to combat terrorism adhere to the laws and policies that among other things protect the privacy and civil liberties of Americans. While NCTC endeavors to prevent compliance incidents through training, internal oversight, program reviews and other measures, compliance incidents are inevitable as the Center increases its data use. This document sets forth requirements for reporting, assessing, investigating and resolving compliance incidents.

b. **Applicability**

- i. These procedures apply to all NCTC personnel (as defined in Section 1(c)(i) below).
- ii. These procedures apply to compliance incidents (as defined in Section 1(c)(ii) below) involving information that NCTC is required to handle and protect under applicable legal authorities and policies. In particular, much of NCTC's data is subject to the following three authorities: 1) Executive Order 12333; 2) Attorney General-approved procedures annexed to [REDACTED], as adopted by the Office of the Director of National Intelligence (ODNI)/NCTC, including any successor guidelines [REDACTED]; and 3) the Guidelines for Access, Retention, Use, and Dissemination by the National Counterterrorism Center and Other Agencies of Information in Datasets Containing Non-Terrorism Information (NCTC-Specific Guidelines). Other applicable legal authorities and policies include but are not limited to the Constitution; statutes; regulations; executive orders; presidential directives; court orders; agreements between NCTC and other entities (e.g., inter-agency memoranda of agreement); interagency agreements and commitments entered into pursuant to the NCTC-Specific Guidelines or otherwise pursuant to ODNI Instruction 80.05, Implementation of Privacy Guidelines for Sharing Protected Information, and/or internal NCTC policies; and/or internal NCTC policies.

c. **Definitions**

- i. "NCTC personnel" in this context is defined as NCTC employees, including ODNI cadre personnel, contractors, detailees and assignees to NCTC from other agencies.
- ii. "Compliance incident" in this context is defined as any instance in which NCTC's conduct is inconsistent with its data handling obligations described in Section 1(b)(ii)



above. Compliance incidents may be individual occurrences (e.g., a typo in a database query caused by simple human error,<sup>1</sup> or an employee running an improper query) or systemic occurrences (e.g., unauthorized personnel having access to an NCTC information technology system).

d. **Roles and Responsibilities**

- i. **NCTC Legal** NCTC Legal is part of the Office of the Director of National Intelligence, Office of General Counsel (ODNI/OGC). The mission of ODNI/OGC is to provide accurate and timely legal guidance and counsel to the Director of National Intelligence (DNI) and the ODNI to ensure that all ODNI (including NCTC) personnel comply with U.S. law and any applicable regulations and directives. As discussed in more detail below, NCTC Legal is the office within NCTC with the responsibility to receive and process all compliance incident reports.
- ii. **NCTC CLPO** The NCTC Civil Liberties and Privacy Officer (NCTC CLPO) is part of the Office of the Director of National Intelligence, Civil Liberties and Privacy Office (ODNI/CLPO). ODNI/CLPO is responsible for overseeing compliance by the ODNI (including NCTC) with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy, and for ensuring that the policies and procedures of Intelligence Community elements include adequate protections for civil liberties and privacy.
- iii. **ISPPPO** The NCTC Information Sharing Program and Policy Office (ISPPPO) is the NCTC office responsible for enabling access to and acquisition of external data required by NCTC mission elements. Among other things, ISPPPO ensures that agreements and understandings between NCTC and external organizations governing NCTC access to, use of and retention of information from external datasets are appropriately documented and that relevant NCTC policy guidance is developed. ISPPPO is also primarily responsible for implementation of and compliance with [REDACTED], the NCTC-Specific Guidelines and related interagency agreements/commitments.
- iv. **CAT** The NCTC Compliance Action Team (CAT) is an action team consisting of directorates and offices across NCTC, and is chaired by ISPPPO. It oversees the development and implementation of a program for tracking, monitoring and reporting on compliance with requirements under [REDACTED] and the NCTC-Specific Guidelines. The CAT's members help ensure that mission and support elements within NCTC understand the requirements under [REDACTED] and the NCTC-Specific Guidelines, and provide critical mission perspective regarding relevant NCTC processes and procedures.

- e. **Interpretation** Any questions or comments about these NCTC Compliance Incident Procedures should be directed to NCTC Legal. In providing interpretive and other guidance, NCTC Legal will

---

<sup>1</sup> Note that in the case of a typo in a query, the obligation to self-report potential compliance incidents (discussed in Section 2(a) below) is especially important, because as a general matter NCTC compliance auditing by individuals not necessarily familiar with the selectors in question will be less likely to reveal these sorts of incidents.



[REDACTED]

consult as necessary and applicable with the NCTC CLPO, ISPPO and other offices within NCTC involved with compliance.

2. **(U) Initial Report of Known or Potential Compliance Incident**

- a. NCTC's workforce is its most valuable asset in the effort to identify and report known and potential compliance incidents so that any incidents may be promptly resolved.
- b. **Reporting Requirement** NCTC personnel who become aware of a known or potential compliance incident (as defined in Section 1(c)(ii) above) involving either themselves or others must immediately report the incident as described below. While not all reported potential incidents may turn out to be actual compliance incidents, NCTC employees should err on the side of over-reporting rather than under-reporting.
  - i. Where feasible, the incident should be reported in writing, using the form at Attachment B to these procedures. At a minimum, personnel reporting potential compliance incidents should seek to provide the information called for in the form, even if the form itself is not used. Information contained in compliance incident reports, including the identity of the individual submitting the report, will be handled with appropriate sensitivity.
  - ii. NCTC Legal is the office within NCTC with the responsibility to receive and process all compliance incident reports. Reports should be submitted by e-mail if possible, and addressed to [REDACTED], which is a group address that includes **NCTC Legal, ISPPO, the NCTC CLPO** and any other offices with a particular role in compliance. If there is a need to provide the information to NCTC Legal by other means – e.g., by telephone or in person – then the information will be documented by NCTC Legal during follow-up as provided in these procedures. If such a report is received by any NCTC office other than NCTC Legal, that office shall refer the report to NCTC Legal.
  - iii. NCTC personnel have other incident reporting and investigation channels available to them under applicable laws, executive orders, and policies. More information about these channels is provided in Attachment A. These NCTC Compliance Incident Procedures are not intended to prevent or discourage NCTC personnel from **additionally** submitting complaints, providing information, reporting misconduct, or otherwise making what they believe to be appropriate use of such channels. Indeed, a compliance incident may be reportable through multiple channels. If an incident is reported under these procedures that should instead or additionally be handled under a different reporting or investigation channel, it will be promptly referred by NCTC Legal to the appropriate office(s) as necessary for investigation and resolution. In addition, if NCTC personnel believe that the information they wish to submit should not be reported as set forth in Section 2(b)(ii) in order to protect the integrity of the investigation or for another reason, the matter may be reported to the Intelligence Community Inspector General's office (described in Attachment A) if within the jurisdiction of that office. In any event, the organizations involved will coordinate as

[REDACTED]

necessary and applicable to ensure that incident reports are handled through proper channels.

**c. Initial Follow-Up to Report**

- i. Upon receipt of an initial report, NCTC Legal will as necessary and applicable notify the NCTC directorates and offices involved in the incident, as well as other entities (including but not limited to those listed in Attachment A). In particular, NCTC Legal will notify the ODNI Mission Support Division/Office of Security (ODNI/MSD/Security) of issues involving mishandling of classified information and other appropriate issues.
- ii. NCTC Legal may conduct, in conjunction with other offices as necessary and applicable, such as ISPPPO and the NCTC CLPO, preliminary information gathering and assessment activities to verify that the report is within proper channels and presents a potentially reportable compliance incident as described in this document. If, during this preliminary stage, NCTC Legal determines that the report should not be processed under these procedures, or does not present a reportable compliance incident, it will take appropriate action (e.g., refer the report to the correct channels). As necessary and applicable, NCTC Legal will consult with other offices such as ISPPPO and the NCTC CLPO regarding its determinations at this stage.
- iii. If it is determined that immediate action is required at this initial stage, as necessary and applicable, NCTC Legal will coordinate with offices such as ISPPPO, the NCTC CLPO and ODNI/MSD/Security to ensure that such action takes place (e.g., if the incident qualifies as a violation that is immediately reportable to the Intelligence Oversight Board, requires revocation of data access, or requires notification to a data provider or other appropriate entity).
- iv. NCTC Legal will track each initial report by a unique number/identifier and maintain documentation reflecting its disposition.

**d. Referral of Report for Further Action<sup>2</sup>**

- i. **Potential compliance incidents relating to [REDACTED], the NCTC-Specific Guidelines, and related interagency agreements/commitments** If it is determined during the initial follow-up stage discussed in Section 2(c) above that a potential compliance incident relates to NCTC obligations to protect information under [REDACTED], the NCTC-Specific guidelines, and/or related interagency agreements/commitments, NCTC Legal will refer the report for further action to ISPPPO or the NCTC CLPO, or will retain the report for further action by NCTC Legal, based upon procedures and processes developed in

---

<sup>2</sup> As noted above, if it is determined that a potential compliance incident report relates to matters not covered by these procedures, the matter will be referred to appropriate channels for further handling.

[REDACTED]

consultation with ISPPO and the NCTC CLPO. As necessary and applicable, NCTC Legal, ISPPO and the NCTC CLPO may develop more detailed procedures for handling compliance incidents, consistent with the provisions of these NCTC Compliance Incident Procedures.

- ii. **Other compliance incidents** If it is determined during the initial follow-up stage discussed in Section 2(c) above that a potential compliance incident report relates to anything other than data obtained pursuant to [REDACTED], the NCTC-Specific Guidelines and the NCTC SMPs, based on the specific facts NCTC Legal will refer the report for further action to ISPPO, the NCTC CLPO, or another appropriate office, or will retain the report for further action by NCTC Legal, based upon procedures and processes developed in consultation with ISPPO and the NCTC CLPO. Any further actions regarding such incidents shall be consistent with the provisions of these NCTC Compliance Incident Procedures.

### 3. (U) Investigation

- a. The office receiving the report for further action pursuant to Section 2(d) above (“lead office”), shall have primary responsibility for conducting a thorough investigation of the incident.
- b. All NCTC components and employees shall cooperate with the investigation, and shall provide any information and assistance that is requested by the lead office. If a component or employee believes the requested information or assistance cannot be provided, the matter shall be referred to the NCTC Front Office for resolution.
- c. As necessary and applicable, such investigation should cover areas including but not limited to the following, and the NCTC components or employees involved in an incident under investigation shall provide such information as requested by the lead office:
  - i. a chronological recitation of the facts leading up to the potential incident, including all relevant dates, times and events;
  - ii. a specific description of the data at issue;
  - iii. the data provider from which NCTC obtained the data;
  - iv. the applicable legal authorities and policies governing handling of the data (based on consultation with NCTC Legal);
  - v. the specific manner in which NCTC’s handling of the data was actually or potentially inconsistent with the applicable legal authorities and policies governing handling of the data (based on consultation with NCTC Legal);
  - vi. the underlying cause of the incident; and
  - vii. the offices and personnel involved in the incident, both within and outside NCTC.

- [REDACTED]
- d. The lead office shall prepare an interim report documenting the items set forth in Section 3(c) above, as well as other relevant results of its investigation. The interim report shall state whether the lead office believes a compliance incident occurred, and as necessary and applicable shall include proposed remediation measures. NCTC Legal shall ensure that the interim report is shared with ISPPPO, the NCTC CLPO and any other entities as necessary and applicable, including the NCTC Front Office and the NCTC Director's Group.
  - e. NCTC Legal will determine whether the investigation establishes that a compliance incident took place, in coordination with, as necessary and applicable, the lead office, ISPPPO, the NCTC CLPO and/or any other appropriate entities. Such determinations will be appropriately documented.

4. **(U) Resolution**

- a. If an actual compliance incident is determined to have occurred, the resolution stage needs to address both the specific compliance incident at issue and any larger systemic reforms or other changes necessary to prevent similar incidents in the future.
- b. Such measures may include, but may not necessarily be limited to:
  - i. notification to appropriate entities (e.g., a data provider, Intelligence Oversight Board, Congress, or a court), and/or notification to individuals affected (if any) pursuant to ODNI Instruction 80.02, Managing Breaches of Personally Identifiable Information;
  - ii. the need for new policy or guidance (or changes to existing policies/guidance)
  - iii. changes in procedures for data handling;
  - iv. supplemental training;
  - v. enhanced internal oversight; and
  - vi. remediation of the violation (e.g., pulling back and reissuing an intelligence product containing information that should not have been disseminated).
- c. If an actual compliance incident is determined to have occurred, the NCTC Front Office shall evaluate the proposed remediation measures contained in the interim report, and shall direct any remediation measures it deems necessary and appropriate to resolve the incident. The lead office shall have primary responsibility for overseeing the implementation of such measures. All NCTC components and employees shall comply with such measures. If a component or employee believes compliance with such measures is not possible, the matter shall be referred to the NCTC Front Office for resolution.
- d. When such measures have been implemented (or, if such measures are ongoing in nature, when such measures have been established), the lead office shall submit a final report. NCTC Legal shall ensure the final report is shared with ISPPPO and the NCTC CLPO, and shall also forward the final report to the NCTC Front Office. The NCTC Front Office may in turn forward



the final report to the NCTC Director's Group, NCTC Chief of Staff Group and/or any other appropriate entities. The final report shall include, but may not necessarily be limited to, a description of the remediation measures implemented (or, if such measures are ongoing in nature, a description of such measures that have been established). As necessary and applicable, the lead office may conduct follow-up spot checks to ensure the measures are working as intended.

- e. NCTC Legal will update the NCTC Chief of Staff Group on pending compliance incidents on a regular basis.



[REDACTED]

(U) ATTACHMENT A

(U) ODNI Reporting and Investigation Channels

**(U) ODNI Intelligence Oversight Board Team** Pursuant to Executive Order 13462, information concerning intelligence activities that may be unlawful or contrary to executive order or presidential directive must be reported to the President's Intelligence Oversight Board. All members of the ODNI workforce who have information regarding an intelligence activity they have reason to believe may be unlawful or contrary to any Executive Order or presidential directive are required to report this information to one or more of the following offices:

- The ODNI Office of General Counsel,
- ODNI's Civil Liberties and Privacy Office, or
- The Inspector General of the Intelligence Community.

Reportable information or a question regarding potentially reportable matters, should be submitted (up to the [REDACTED] level) via Lotus Notes address: [REDACTED].

**(U) ODNI Office of the General Counsel (ODNI/OGC)** OGC's mission is to provide accurate and timely legal guidance and counsel to the DNI and to the ODNI to ensure all employees and contractors assigned to the ODNI comply with U.S. law and any applicable regulations and directives. OGC's mission also includes supporting the DNI in carrying out his statutory responsibility to ensure compliance with the Constitution and laws of the United States by elements of the Intelligence Community that are part of the National Intelligence Program. To this end, OGC works closely with legal officers across the Intelligence Community to coordinate the development of legal mechanisms to facilitate the implementation of DNI policies and to ensure compliance with applicable law.

**(U) ODNI Civil Liberties and Privacy Office (ODNI/CLPO)** ODNI/CLPO ensures that intelligence activities within the National Intelligence Program comply with the Constitution and laws of the United States relating to civil liberties and privacy. ODNI/CLPO has primary responsibility for reviewing, assessing, and investigating complaints and other information indicating possible violations of civil liberties and privacy rights in the administration of ODNI programs and operations. ODNI/CLPO coordinates with other ODNI action offices to review and, if necessary, investigate allegations of reprisal or threatened reprisal against individuals who report abuses of civil liberties and privacy in ODNI programs and operations.<sup>3</sup>

**(U) Intelligence Community Inspector General (IC IG)** The IC IG works to promote efficiency, effectiveness, and accountability in the administration of ODNI and IC activities. The IC IG also seeks to prevent and detect fraud, waste, abuse, and mismanagement of ODNI programs and resources, and investigates wrongdoing brought to its attention. Investigations may involve allegations of administrative or criminal

---

<sup>3</sup> (U) Note that 42 USC 2000e-1(e) provides: "Reprisal for making complaint. – No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to [the ODNI Civil Liberties Protection Officer], that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity."



misconduct, including contract fraud, misuse of government resources, conflicts of interest, wasteful management practices, time and attendance fraud, and other violations of Federal laws and regulations. ODNI personnel have both a right and an obligation to report such issues.

**(U) Office of Equal Employment Opportunity and Diversity (EEO)** The EEO provides equal employment opportunity and diversity services, management of discrimination complaints, and treatment of cases of hostile work environment. ODNI personnel who believe they are victims of unlawful discrimination or improper personnel action based on membership in a protected class must contact an EEO counselor within 45 days of the alleged discriminatory or wrongful action and prior to filing a formal complaint of discrimination in the ODNI.

**(U) ODNI Mission Support Division/Office of Security** MSD/Security provides employees and managers with advice and guidance on suitability and security issues to facilitate appropriate intervention and prompt remedies. MSD/Security provides advice and guidance to employees when they are facing adverse action and when their performance, conduct, or eligibility for continued access to classified information has been questioned. MSD/Security also supports managers and Human Resource Officers (HROs) in identifying and handling problematic employee issues. Consultation with the MSD/Security is required prior to the decision to recommend or impose any disciplinary action other than an oral admonition or a letter of warning.

**(U) Office of the Ombuds** The Office of the Ombuds is an independent, confidential, and neutral resource that provides a safe place for employees and managers to resolve all types of workplace issues informally and outside the formal channels. The Ombuds supplements but does not replace formal means of redress. The Ombuds uses shuttle diplomacy, coaching, mediation, facilitation, and other means to resolve issues without recourse to formal action.



[REDACTED]

(U) ATTACHMENT B

(U) NCTC Form for Reporting  
Known or Potential Compliance Incidents

(U) Please complete this form to the best of your ability, and send it by e-mail to the address [REDACTED]. Please attach additional sheets if necessary, and attach any relevant documentation. If you have questions or require additional guidance, please contact NCTC Legal at the address [REDACTED].

|  |  |
|--|--|
| Date/Time of Event - If ongoing, date event began (e.g., date when data was first received, and date when data should have been deleted but was not) |  |
| Date/Time of Discovery (if different)  |  |
| NCTC Office(s) Involved (please include POC names and phones)  |  |
| Other Agency(ies) Involved (please include POC names and phones)   |  |
| Description of Relevant Facts, and datasets involved, if applicable (to the extent practicable, please provide in chronological order)               |  |
| Describe any U.S. Persons, personally identifiable information, or other sensitive information implicated  |  |
| How discovered (e.g., self-reported, notice from other agency) and by whom   |  |