INTELLIGENCE COMMUNITY DIRECTIVE 102

Technical Amendment

Process for Developing Interpretive Principles and Proposing Amendments to Attorney General Guidelines Governing the Collection, Retention, and Dissemination of Information Regarding U.S. Persons

A. PURPOSE

1. Pursuant to Intelligence Community Directive (ICD) 101, Section G.1.b.(3), technical amendments are hereby made to ICD 102, *Process for Developing Interpretive Principles and Proposing Amendments to Attorney General Guidelines Governing the Collection, Retention, and Dissemination of Information Regarding U.S. Persons*.

2. This Directive authorizes the General Counsel for the Director of National Intelligence, as the Accountable Official, to establish Interpretive Principles, in coordination with subject matter experts in the IC, and publish them as IC Standards, after review by the Department of Justice/National Security Division. Amendments to this Directive replace references to Intelligence Community Policy Guidance with Intelligence Community Standards bringing it into conformity with ICD 101, *Intelligence Community Policy System*.

B. EFFECTIVE DATE: The technical amendment to ICD 102 becomes effective on the date of signature.

Dawn R Eilenberger 13 June 2016

Assistant Director of National Intelligence for Policy and Strategy — Date

INTELLIGENCE COMMUNITY DIRECTIVE 102

Process for Developing Interpretive Principles and Proposing Amendments to Attorney General Guidelines Governing the Collection, Retention, and Dissemination of Information Regarding U.S. Persons

A. AUTHORITY: The National Security Act of 1947, as amended, Executive Order (EO) 12333, as amended and other applicable provisions of law.

B. PURPOSE

1. The purpose of this Intelligence Community (IC) Directive (ICD) is to improve the capability of IC elements to collect, retain, and disseminate information, in order to protect the United States from terrorism and other threats to national security, while ensuring that IC activities are carried out in a manner that protects the legal rights, civil liberties, and privacy interests of United States Persons (USP).

2. EO 12333 provides that agencies within the IC are authorized to collect, retain, and disseminate information concerning USP only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General (AG) (hereinafter "USP Guidelines"), after consultation with the Director of National Intelligence. Due to variations in each IC element's USP Guidelines and interpretations of EO 12333 over the years, there is a recognized need for greater consistency in applying and interpreting EO 12333 and USP Guidelines. To that end, this ICD establishes the following:

a. A process for the Office of the Director of National Intelligence (ODNI), in consultation with the Department of Justice (DOJ) and the IC, to issue clarifying and unifying interpretive principles regarding the collection, retention, and dissemination of USP information (hereinafter "USP Principles"), through the issuance of IC Standards (ICSs); and

b. A process for elements of the IC to request clarifying and unifying interpretive USP Principles or to request changes to USP Guidelines. ICSs will complement existing IC element USP Guidelines to ensure that, to the maximum possible extent, IC elements interpret USP Guidelines and USP Principles consistently.

C. APPLICABILITY: This ICD applies to the IC, as defined by the National Security Act of 1947, as amended, and to other departments or agencies that may be designated by the President, or designated jointly by the Director of National Intelligence (DNI) and the head of the department or agency concerned, as an element of the IC. This ICD applies only to intelligence activities conducted pursuant to EO 12333.

D. POLICY

1. Accurate and timely information about the capabilities, intentions, and activities of foreign powers, organizations, or persons, and their agents is essential to informed decision making in the areas of national security, national defense, homeland security, and foreign relations. Ensuring maximum availability of and access to intelligence information is a priority objective and will be pursued in a vigorous, innovative, and responsible manner that is consistent with the Constitution and other applicable laws, including relevant EOs and Presidential Directives. Clear and consistent USP Guidelines and USP Principles regarding the collection, retention, and dissemination of information concerning USP are important to achieving these policy goals.

2. To the greatest extent practicable, USP Guidelines and interpretations of those Guidelines shall be consistent across IC elements, and shall be updated in a timely manner to address new collection technologies, new analytic tools, and new laws, rulings, or regulations, as appropriate. Each IC element will make every effort to interpret all rules relating to USP to achieve maximum consistency across the IC whenever practicable, taking into account the particular missions and responsibilities of each IC element. IC elements shall coordinate significant interpretations of USP Guidelines or USP Principles with the ODNI Office of General Counsel (OGC) as needed to ensure maximum consistency across the IC.

3. The head of each IC element, or the head of a department or agency containing an element of the IC, is responsible for periodically reviewing that element's USP Guidelines. As part of this review, the head of each IC element, or the head of a department or agency containing an element of the IC, shall notify the DNI and the AG if he or she believes a provision of any USP Guidelines or any USP Principles:

a. Results in unnecessary inconsistency among IC elements;

b. May not adequately protect the legal rights, civil liberties or privacy interests of USP; or

c. Unnecessarily inhibits the timely collection, retention, or dissemination of information.

4. Interpretations of or other issues regarding USP Guidelines or USP Principles that an IC element believes may affect more than one IC element shall be brought to the attention of the General Counsel (GC) of the ODNI or referred to the IC General Counsels' Forum for discussion and recommendations. To the extent that USP interpretations or any other issues covered by this ICD raise questions relating to privacy and civil liberties, the ODNI Civil Liberties Protection Officer, the Privacy and Civil Liberties Oversight Board, and other privacy and civil liberties officials will be consulted, as appropriate.

5. Effective training on USP Guidelines and USP Principles is necessary to enhance intelligence collection, intelligence information sharing, and protection of privacy and civil liberties. The OGC for the IC elements will work closely with those responsible for education and training in each IC element to ensure that effective and up-to-date USP training is available to all IC personnel who handle USP information. To ensure maximum consistency across the IC, the ODNI will review IC element USP training programs, as appropriate.

E. INTERPRETIVE USP PRINCIPLES AND AMENDMENTS TO USP GUIDELINES

1. The ODNI may issue clarifying and unifying interpretive USP Principles regarding the collection, retention, and dissemination of USP information.

2. Any IC element may request the consideration of additional USP Principles or the amendment of existing USP Principles. These requests shall be submitted directly to the GC of the ODNI, and will be coordinated within the IC in accordance with procedures established in ICPG 101.2, *Intelligence Community Standards*.

3. Before adoption, an interpretive USP Principle will be submitted to the DOJ, through the National Security Division (NSD), for a determination of its consistency with existing AG approved USP Guidelines.

4. The heads of departments and agencies with elements in the IC or the heads of IC elements, as appropriate, may request changes or amendments to USP Guidelines by submitting them directly to the GC of the ODNI, or by submitting them to the AG through the DOJ NSD. When requests are made to the GC of the ODNI, the GC shall coordinate such requests among the IC elements, as appropriate, and shall submit the requests to the AG through the DOJ NSD.

F. EFFECTIVE DATE: This Directive becomes effective on the date of signature.

//SIGNED//J.M. McConnell	19 Nov 2007
Director of National Intelligence	Date