INTELLIGENCE COMMUNITY DIRECTIVE 310

Coordination of Clandestine Human Source and Human-Enabled Foreign Intelligence Collection and Counterintelligence Activities Outside the United States

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. This Intelligence Community Directive (ICD) establishes the policies and procedures called for in EO 12333, Sections 1.3(b)(20), consistent with Sections 1.3(b)(4), (21), and (23), and 1.5(f), (g), and (i) to ensure the deconfliction, coordination, and integration of intelligence activities that are conducted by an Intelligence Community (IC) element or funded by the National Intelligence Program pertaining to the clandestine collection of foreign intelligence collected through human sources or through human-enabled means and counterintelligence activities outside the United States (U.S.), including the coordination of intelligence liaison with intelligence and security services of foreign governments on such activities (hereafter, "activities covered by this Directive").

2. The Director of National Intelligence (DNI) is committed to ensuring that the clandestine collection of foreign intelligence through human sources or through human-enabled means and counterintelligence activities outside the U.S. are appropriately coordinated, deconflicted, and integrated. The overall goal is to significantly enhance the security of the nation by effectively and efficiently allocating resources, while adequately protecting sources, methods, and activities from compromise or unauthorized disclosure.

3. The provisions of this directive do not derogate or alter the authority of the Central Intelligence Agency (CIA) under the direction and guidance of the DNI, pursuant to EO 12333 Section 1.7(a)(6), to coordinate the implementation of intelligence and counterintelligence relationships between elements of the IC and the intelligence or security services of foreign governments or international organizations.

4. This Directive rescinds the remaining portions of Director of Central Intelligence Directive (DCID) 5/1P, *Espionage and Counterintelligence Activities Abroad.*

C. APPLICABILITY

1. This Directive applies to the IC, as defined by the National Security Act of 1947, as amended; and to such other elements of any other department or agency as may be designated an element of the IC by the President, or jointly by the DNI and the heads of the departments or agencies concerned.

2. This Directive does not apply to:

a. agreements between CIA and U.S. Government (USG) departments or agencies outside the IC regarding the coordination of clandestine activities;

b. any joint procedures with USG departments, agencies, or establishments outside the IC created pursuant to EO 12333, Section 1.3(b)(21); or to

c. purely law enforcement investigations or activities.

3. For the purposes of this Directive, the activities described in EO 12333, Section 1.3(b)(20)(B) and covered by this Directive are addressed in existing agreements concluded between the Director, CIA (D/CIA) and the heads of affected IC elements (CIA-IC Coordination Agreements) and may be elaborated as necessary in amendments to those agreements or in new agreements. In addition, nothing in this Directive limits a CIA-IC Coordination Agreement from addressing the coordination of activities beyond those covered by this Directive.

D. POLICY

1. Activities covered by this Directive shall be coordinated by the D/CIA, as provided for in CIA-IC Coordination Agreements. Unless otherwise provided for in CIA-IC Coordination Agreements, the provisions of this Directive shall be read with a presumption in favor of coordination. Existing interagency coordination and deconfliction agreements remain valid and in effect. Copies of all agreements shall be provided to the DNI.

2. Coordination should seek to enable and enhance the effectiveness and security of activities covered by this Directive, and should not be limited to the deconfliction of proposed operations. For the purposes of this Directive, the term "coordination" shall be defined in each agreement between IC elements and the CIA for purposes of that agreement.

3. Coordination should not be *pro forma*. It should include the timely exchange by IC elements of pertinent and necessary information to facilitate operational success and proper coordination of the proposed activity consistent with Section D.1 and other applicable interagency agreements.

4. The following general principles shall inform the coordination of activities covered by this Directive and may be further elaborated in the CIA-IC Coordination Agreements described above in Section D.1.:

a. Coordination shall occur at the lowest practical and authorized level;

b. Coordination should occur in advance of a proposed operational activity. If coordination in advance is not possible due to fleeting opportunity, perishable intelligence, or risk of physical harm or loss of life, the IC element conducting that activity shall ensure that notification and coordination is initiated as expeditiously as possible;

c. Coordination should include thorough and continual dialogue among the affected IC elements on proposed and ongoing activities. Even after initial coordination of a proposed activity, all parties must continue to confer as long as that activity is ongoing; and

d. All parties shall maintain accurate and complete documentation of the coordination of activities covered by this Directive. Such documentation shall contain sufficient detail to confirm the scope of the coordination.

5. Issue Identification and Resolution.

a. If in the course of coordination any party identifies a counterintelligence issue, including whether the requirements of this Directive apply to a particular counterintelligence activity, and the issue cannot be resolved between the two parties, the issue will be raised to the DNI through the Director, National Counterintelligence and Security Center (D/NCSC) in accordance with Section E.2. of this Directive.

b. If in the course of coordination any party identifies a foreign intelligence issue, including whether the requirements of this Directive apply to a particular foreign intelligence activity, and the issue cannot be resolved between the two parties, the issue will be raised to the DNI through the Deputy DNI for Intelligence Integration (DDNI/II) in accordance with Section E.3. of this Directive.

c. Issue identification and resolution will be completed in accordance with interagency agreements.

d. If CIA and IC elements have exhausted all procedures for issue resolution provided for within an agreement and remain at an impasse, the D/CIA shall notify simultaneously the DNI and the head of the affected IC element. The head of an affected IC element may, at his or her discretion, also notify the DNI of any such impasse. The DNI will facilitate resolution of issues that have been referred to him as provided for in Sections E.1.b., E.2.b. and E.3.b.

e. If a CIA-IC Coordination Agreement does not address issue identification and resolution, or if the dispute affects the equities of an IC element not party to the agreement, then an attempt shall be made to resolve the dispute at the lowest practical level in accordance with the requesting IC element's timeline. If no agreement can be reached, the issue shall be referred promptly to higher-level officials designated by the heads of the affected IC elements, followed by the heads of those IC elements.

6. When an activity is conducted both inside and outside the U.S., it shall also be coordinated in accordance with IC policies governing such activities inside the U.S. as stipulated in ICD 311, *Coordination of Clandestine Human Source and Human-Enabled Foreign Intelligence Collection and Counterintelligence Activities Inside the United States*.

7. If the D/CIA believes that a proposed activity may be in violation of federal criminal laws, the D/CIA will first notify in writing the head of the IC element that has proposed the activity of CIA's concern and attempt to resolve the issue. If the head of the IC element and the D/CIA cannot resolve the issue to the satisfaction of both parties, the D/CIA, in consultation with the head of the IC element and the DNI, may refer the matter to the Attorney General for review.

8. The head of an IC element, in accordance with EO 12333, Section 1.6(b), has a responsibility to report to the Attorney General possible violations of Federal criminal laws. The head of an IC element, in accordance with EO 12333, Section 1.6(c), also has a responsibility to

report to the Intelligence Oversight Board any intelligence activities of their elements that they have reason to believe may be unlawful or contrary to executive order or presidential directive.

9. Consistent with EO 12333, Section 1.5(i), clandestine collection of foreign intelligence collected through human sources or through human-enabled means outside the U.S. not coordinated in advance with the CIA must be reported promptly to the D/CIA and the DNI, either directly or through their respective designees serving outside the U.S.

10. Questions concerning the interpretation of this Directive shall be referred to the Office of the Assistant Director of National Intelligence for Policy and Strategy and the DNI's Office of General Counsel. The DNI/Office of General Counsel will consult with the CIA/Office of General Counsel regarding any novel or significant interpretations of this Directive.

E. ROLES AND RESPONSIBILITIES

1. The DNI will:

a. Remain apprised of the development of agreements, under Section E.4.c., implementing this Directive;

b. Ensure the coordination, deconfliction, and integration of counterintelligence activities and the clandestine collection of foreign intelligence collected through human sources or through human-enabled means, and facilitate the resolution of issues that cannot be resolved by heads of affected IC elements;

c. Review the annual report called for in Section E.4.d. on the status and scope of coordination activities subject to this Directive; and

d. With the concurrence of affected heads of departments and agencies, as necessary establish joint procedures to deconflict, coordinate, and synchronize intelligence activities using human source or human-enabled means that are conducted by an IC element or funded by the National Intelligence Program with intelligence activities, activities that involve foreign intelligence and security services, or activities that involve the use of clandestine methods conducted by other U.S. Government departments, agencies, and establishments.

2. The D/NCSC, on behalf of the DNI, shall:

a. Remain apprised of the development of agreements, under Section E.4.c., implementing this Directive with respect to counterintelligence activities;

b. Facilitate the resolution of issues regarding counterintelligence activities identified under Section D.5 that cannot be resolved by heads of affected IC elements; and

c. Review the annual report called for in Section E.4.d. for issues regarding counterintelligence activities.

3. The DDNI/II shall:

a. Remain apprised of the development of agreements, under Section E.4.c., implementing this Directive with respect to foreign intelligence;

b. Facilitate the resolution of issues regarding foreign intelligence activities identified under Section D.5 that cannot be resolved by heads of affected IC elements; and

c. Review the annual report called for in Section E.4.d. for issues regarding foreign intelligence activities.

4. The D/CIA shall:

a. Coordinate activities covered by this Directive;

b. Support and assist IC elements proposing or conducting activities covered by this Directive, as appropriate, including assistance to other IC elements for their cover support requirements;

c. Develop, in coordination with the heads of affected IC elements, any additional procedures and agreements necessary to implement this Directive,

(1) The D/CIA shall keep the DNI apprised of the need to develop those procedures and agreements and the status as they progress; and

(2) Agreements between the CIA and IC elements will be approved by the D/CIA, or senior designee, and the designated representative of the affected IC elements;

d. Report, in coordination with the heads of affected IC elements, to the DNI annually by 1 October on the status and scope of the coordination of activities covered by this Directive. The D/CIA shall append to the report any views provided by other heads of IC elements; and

e. Maintain a single interagency source registry as a service of common concern.

5. Heads of IC elements shall:

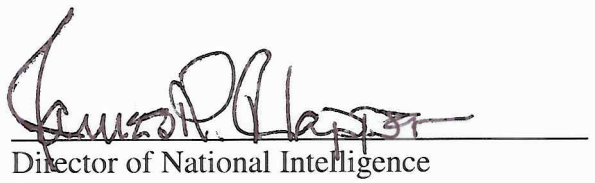
a. Ensure that all activities covered by this Directive are coordinated in accordance with this Directive and applicable CIA-IC Coordination Agreements;

b. Provide necessary and pertinent information concerning activities covered by this Directive in a timely fashion to facilitate coordination;

c. Support the CIA in the development of any additional CIA-IC Coordination Agreements necessary to implement this Directive, as reflected in Section E.4.c; and

d. Promptly inform the D/CIA and the DNI, either directly or through their respective designees serving outside the U.S., of clandestine collection of foreign intelligence through human sources or through human-enabled means outside the U.S. not coordinated in advance with the CIA, consistent with the general responsibility established in EO 12333, Section 1.5(i).

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



Director of National Intelligence

27 JUNE 2016

Date