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DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC

ES 2025-00247

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Clarification of Requirement Included in Intelligence Community Directive 711, Prepublication Reviews, 12 July 2024

REFERENCE: Intelligence Community Directive 711, Prepublication Reviews, 12 July 2024

Following publication of Intelligence Community Directive (ICD) 711, *Prepublication Reviews*, on 12 July 2024 (Reference), the Office of the Director of National Intelligence received queries on the definition of the “fully-informed person” standard in section C.3. That section provides that “[t]his Directive applies to non-official material that a fully-informed person granted access to covered intelligence might reasonably deem to contain or be derived from covered intelligence and that is intended for disclosure to, or discussion with, one or more individuals not authorized to access covered intelligence, or which is intended for public dissemination.” Some have interpreted the standard to be very broad and to ultimately require that all materials be submitted for prepublication review because it is impossible to know what a “fully-informed person” would conclude. This memorandum seeks to clarify this standard.

The standard outlined in section C.3. is intended to mean that current or former personnel need not submit material for prepublication review if the material could not reasonably be deemed to contain or be derived from covered intelligence. In determining what “might reasonably be deemed” to “contain or be derived from covered intelligence,” reasonableness should be judged by what a clearance-holder with access to relevant information, knowledgeable about intelligence activities and classification of information, might reasonably deem to contain or be derived from covered intelligence. In other words, where a person seeking to publish material thinks the material is or is likely to be unclassified, but also believes an informed intelligence professional might reasonably conclude otherwise, the person should submit the material for prepublication review. For example, when a former officer seeks to publish information concerning an intelligence activity, an aspect of which has been officially acknowledged and believes explanatory information about how that intelligence activity may have been undertaken is likely unclassified, the former officer should submit the material for prepublication review if they believe an informed intelligence professional might reasonably conclude that the explanatory information was not included in the official acknowledgement and remains classified. In contrast, if the person seeking to publish the material has a factual basis to believe that a reasonable, informed intelligence professional would not determine that the material is classified, the material need not be submitted. This standard may be met, for example, where the intelligence material in question is sourced to an unclassified official acknowledgment of the U.S. Government and does not disclose additional intelligence or

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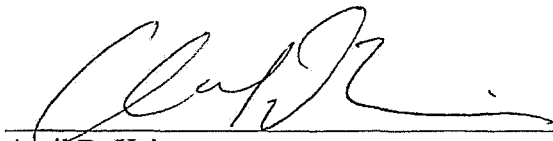
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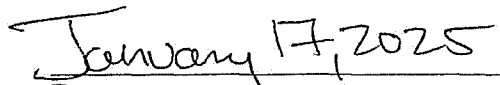
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intelligence-related information than the official acknowledgment on which it is based. This standard reflects the reality that the U.S. Government relies on current and former personnel every day not to disclose classified information to those not authorized to receive it, while also recognizing that when there may be doubt about whether information slated for publication is classified, the prepublication review process should be invoked to ensure that the correct decision is made and avoid harm to national security.

Covered personnel may err on the side of caution and submit non-official material to an Intelligence Community (IC) element for prepublication review to ensure that they are fulfilling their responsibility to safeguard classified information. Indeed, if covered personnel publish non-official material without receiving clearance from the appropriate IC element through prepublication review, they remain personally responsible for ensuring that no classified information is disclosed, as noted in section D.17 of ICD 711. In addition, as indicated in section D.18 of the ICD, when a submitter has a history of prior unauthorized disclosure of covered intelligence or non-compliance with an IC element's prepublication review requirements, the IC element may require that person to submit all intelligence-related non-official material for prepublication review, notwithstanding the standard outlined in section C.3.

This clarifying guidance becomes effective on the date of signature. A technical amendment will be added to ICD 711 that cites this clarifying guidance.


Avril D. Haines


Date

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INTELLIGENCE COMMUNITY DIRECTIVE

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ICD 711

Prepublication Reviews

A. AUTHORITY: The National Security Act of 1947, as amended; Executive Order (EO) 12333, *United States Intelligence Activities*, as amended; EO 13526, *Classified National Security Information*; and other applicable provisions of law.

1. Pursuant to Section 102A(i) of the National Security Act of 1947, as amended, the Director of National Intelligence (DNI) is required to protect intelligence sources and methods from unauthorized disclosure.

2. EO 13526, Section 6.2(b) and EO 12333, Section 1.3(b)(9) provide that the DNI, after consultation with the heads of affected departments and agencies, may issue implementing directives with respect to protecting intelligence and intelligence-related information through proper classification and declassification and for access to and dissemination of all intelligence and intelligence-related information.

B. PURPOSE: This Intelligence Community Directive (ICD) establishes policy on the requirements and process for Intelligence Community (IC) element administration of prepublication reviews. This policy is consistent with First Amendment principles and takes into account the value of an informed public.

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 department or agency as may be designated by the President, or designated jointly by the DNI and the head of the department or agency concerned, as an element of the IC.

2. Pursuant to implementation policies developed and maintained by IC elements, any individual who previously or currently receives, handles, stores, or processes classified intelligence and classified intelligence-related information (including sensitive compartmented information [SCI]) (hereinafter "covered intelligence") and whose access to covered intelligence was or is sponsored by an element of the IC, including individuals in executive departments and agencies of the U.S. Government, the Executive Office of the President, the legislative and judicial branches of the U.S. Government and all other U.S. entities as defined by EO 13526, Section 6.1(ss) (hereinafter "covered personnel"), shall be instructed to submit non-official material for a prepublication review prior to public dissemination or sharing with anyone that is not authorized to access covered intelligence (e.g., peer reviewers, editors, agents, co-authors, third parties, including legal counsel) following the process described in Section D.

3. This Directive applies to non-official material that a fully-informed person granted access to covered intelligence might reasonably deem to contain or be derived from covered intelligence and that is intended for disclosure to, or discussion with, one or more individuals not authorized to access covered intelligence, or which is intended for public dissemination.

a. Non-official material are products prepared by covered personnel in a personal capacity (i.e., not created in an official U.S. Government capacity or on behalf of the U.S. Government).

b. Non-official material may include, but is not limited to works, including works of fiction or non-fiction, such as: prepared oral statements, resumes, editorials, videos, books, scholarly papers, scripts, screenplays, interviews, speeches, newsletters, websites, social media postings, brochures, graphics, briefings, articles, presentations, book reviews, or remarks for panel discussions.

D. POLICY

1. The purpose of prepublication review is to ensure the protection of classified government information, including intelligence and intelligence-related information, that upon disclosure reasonably could be expected to cause damage to the national security. While not the purpose of prepublication review, during the course of such review an IC element may also identify unclassified but sensitive information that might be otherwise restricted under law or federal regulation. If so, that information may also be flagged for the submitter consistent with the timelines described herein. Prepublication review is distinct from the act of classifying, declassifying, or officially acknowledging government information. The approval of a request to publish or otherwise disclose material as the result of a prepublication request does not imply endorsement, authentication, or official acknowledgment of the information by the IC or the U.S. Government.

2. In order to ensure the protection of covered intelligence and sources and methods and to foster uniform prepublication review rules among IC elements, IC elements shall require all covered personnel to submit for prepublication review all non-official material described in C.3 prior to disclosure to any person not authorized to access covered intelligence.

3. IC element policies shall require covered personnel to submit prepublication review requests as follows:

a. Current IC personnel, including government staff, contractors, detailees, and assignees (hereinafter "IC personnel"), shall submit prepublication review requests to their home agency/employing IC element (or department), which will coordinate with other IC elements as necessary.

b. Former IC personnel shall submit prepublication review requests to their last employing IC element (or department). That IC element will coordinate additional review within the IC, as needed.

c. Current or former personnel who were not employed by an IC element (e.g., congressional staff or industry personnel) shall contact the employing entity's security office, or the Defense Counterintelligence and Security Agency for industry personnel, to determine which

IC element sponsored their clearance, and shall submit the prepublication review requests to the IC element or department that sponsored their clearance.

4. IC elements shall establish a prepublication review process or modify their current prepublication process in a manner that is consistent with this ICD, including by creating or maintaining a public-facing website. IC elements shall promptly acknowledge the receipt of a prepublication review request, and provide the submitter with information about the prepublication review process, including applicable deadlines and contact information for any relevant points of contact. IC elements shall strive to complete a prepublication review within the time periods prescribed in this ICD.

a. Relatively short, time-sensitive requests (e.g., letters to the editor, some oral statements) shall be handled as expeditiously as practicable.

b. If the review exceeds 30 business days from the date of acknowledgment, the receiving IC element shall immediately notify the submitter with a status update and reason for the delay and then provide an update every four weeks thereafter.

5. IC elements shall ensure all non-official material in prepublication review requests are reviewed only by the necessary individuals authorized to assist in completing the prepublication review, including prepublication review personnel, government legal counsel, and subject-matter experts, and only for the purpose of prepublication reviews as described in Section D.1. Prepublication review personnel shall disclose to subject-matter experts only the minimum amount of non-official material necessary for them to review. Subject-matter experts may not further distribute or circulate material. Under no circumstances may material be shared with personnel (with the exception of government legal counsel or others to whom disclosure may be legally required) for reasons other than facilitating the prepublication review. Prepublication reviews shall be timely, reasoned, impartial, and free from political or policy bias.

6. The fact that covered personnel have submitted material for prepublication review shall not, in and of itself, be sufficient to qualify them as "members of the press" for purposes of triggering restrictions on IC prepublication review personnel communications with the submitter under media contact policies.

7. IC elements shall review non-official material to determine whether it contains covered intelligence, and should also review it to determine whether it contains other classified information. If any such information is identified during the review, the IC element shall notify the submitter to prevent an unauthorized disclosure and address containment, as applicable. IC elements shall, to the maximum extent practicable, ensure that there is discretion to work with the submitter to devise ways for the submitter to communicate the non-official material in unclassified terms. As part of this process, IC elements shall provide the submitter with an opportunity to identify relevant prior official disclosures of information that bear on a prepublication request.

8. If sensitive information that may be restricted under law or federal regulation is identified during the review, IC elements may, consistent with the time periods prescribed in this ICD and in consultation with government counsel where practicable and necessary, identify such

information to the submitter and request its removal, so the submitter has an opportunity to communicate the non-official material in a way that does not disclose such sensitive information.

9. Consistent with the protection of intelligence sources and methods and other classified information, IC elements shall provide one consolidated and comprehensive written response for each prepublication review request, clearly indicating which portions of the non-official material may be disclosed without change or require modification prior to disclosure, and which portions are not authorized for disclosure. IC elements shall document the reason for an approval, modification, or denial of each prepublication review request.

a. In the event that a prepublication review request needs to be reviewed by other IC elements, the IC element that received the request and is responsible for completing the review (hereinafter "receiving IC element") shall make a reasonable effort to refer it to the appropriate IC elements (hereinafter "referred IC elements") in a timely manner, and within 10 business days of receipt, or within 15 days for lengthy publications (e.g., books, large manuscripts). Referred IC elements shall make every effort to respond to the receiving IC element within 15 business days of receipt, or within 45 days for lengthy publications (e.g., books, large manuscripts). If referred IC elements are unable to complete the review within the prescribed period, then they shall notify the receiving IC element every 10 days until completion of the review, or every 30 days for lengthy publications (e.g., books, large manuscripts).

b. Consistent with Section D.4, the receiving IC element shall strive to complete a prepublication review request within 30 business days of receipt, or within 90 days for lengthy publications (e.g., books, large manuscripts), to the maximum extent practicable. The receiving IC element shall notify the submitter if the prepublication review request has been referred for coordination with another IC element, to include, if consistent with the protection of intelligence sources and methods, the name of the IC element and rationale, and provide status updates. The receiving IC element shall only provide one consolidated and comprehensive response to the prepublication review request once all referred IC elements have provided responses.

10. IC elements shall establish an appeals process for prepublication review requests that have been denied. Submitters shall have 60 business days from the date of denial to submit a written appeal. IC elements shall only consider appeal requests that: identify the portions of the non-official material for which the submitter is requesting an additional review, include results from prior prepublication reviews, and include additional sourcing or any other material that may be needed to support the submitter's assertion that the information is not classified and should not be protected from disclosure. IC elements shall strive to provide a final determination within 30 business days from receipt of the appeal.

11. IC elements that approve requests for publication or other disclosure under policies implementing this ICD shall not take adverse administrative action against submitters because of such approval or the publication or disclosure of information within the scope of approval. This policy direction pertains to IC elements and does not constitute a waiver of pertinent authorities, including those held by other departments and agencies including the Department of Justice. However, the Department of Justice would likely consider all relevant facts, including whether a publication or disclosure of information is within the scope of an approval, when making any relevant determinations.

12. IC elements shall identify a Prepublication Review Authority who serves as the liaison for referrals and provides a final determination on prepublication review requests, and identify a Prepublication Review Appellate Authority who adjudicates appeals. IC elements shall ensure the same individual does not serve in both roles.

13. IC elements shall provide training on prepublication review requirements and ensure that IC personnel, upon entry-on-duty and exit-from-duty, are aware of their obligation under IC element policy implementing this ICD to adhere to prepublication review requirements and how to access prepublication review resources and submit prepublication review requests. IC elements shall provide IC personnel exiting from duty a single set of written instructions for prepublication review, which also shall be on the IC elements' prepublication review websites.

14. IC elements shall maintain public-facing and internal websites regarding prepublication review that are accessible from the element's main page and include links to all relevant policies and instructions, as well as information on requirements and responsibilities, including points of contact and instructions on how to submit non-official material for review. ODNI shall maintain a website that serves as a centralized prepublication review resource for all IC elements and covered personnel.

15. IC elements shall establish and maintain an up-to-date searchable data system that tracks prepublication review requests and related metrics (see Appendix). IC elements shall provide ODNI with metrics tracked in accordance with this ICD on an annual basis and as requested.

16. This ICD does not alter the responsibilities or obligations of individuals under law, federal regulation, or contract, including existing U.S. Government nondisclosure agreements (NDAs). IC elements shall, within 180 days from signature of this ICD, revise all future NDAs to conform with this Directive. The revised NDAs shall be used beginning no later than 180 days from the effective date of this ICD.

a. Upon request of covered personnel, IC elements shall afford covered personnel who have signed NDAs that predate this ICD an opportunity to sign new NDAs consistent with this ICD and cancel the prior NDAs.

17. If covered personnel prepare non-official material without submitting it to an IC element for prepublication review, they remain personally responsible for ensuring that no classified information is disclosed. This Directive does not preclude any personnel from submitting non-official material to an IC element for prepublication review in their discretion in order to ensure that they are fulfilling this responsibility.

18. IC elements shall ensure that unauthorized disclosures of classified information are promptly reported to the submitter of the non-official material, and the process in ICD 701, *Unauthorized Disclosures of Classified National Security Information*, and ICD 732, *Damage Assessments*, as relevant, shall be followed. When a submitter has a history of prior unauthorized disclosure of covered intelligence or of non-compliance with an IC element's prepublication review requirements, the IC element may require that person to submit all intelligence-related non-official material for prepublication review.

19. The ODNI Chief Operating Officer (COO), acting through the Information Management Office (IMO), is the Accountable Official for the implementation of this ICD and shall provide

strategic oversight of the IC prepublication review process, to include developing IC Standards or guidance.

20. IC elements shall ensure that all current and incoming covered personnel granted access to covered intelligence are aware of the prepublication review requirements.

21. IC elements shall have a prepublication review policy that is consistent with this Directive, within 180 days of signature of this policy. IC elements may fulfill the requirements of this ICD by issuing their own policies or through departmental policy, as appropriate, provided that those policies are consistent with the provisions of this ICD.

22. This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

E. ROLES AND RESPONSIBILITIES

1. The ODNI COO shall:

a. Serve as the Accountable Official for implementation of this ICD and provide strategic oversight of the IC prepublication review process, to include developing IC Standards or guidance; collecting prepublication review metrics from the IC elements; and overseeing an audit based on these metrics for each element at least once every five years;

b. Maintain a website that serves as a reference for all IC elements and covered personnel on prepublication review; and

c. Report to the DNI on the implementation of this policy by a date that is one year from signature of this ICD, with a follow-up report on a date that is two years from signature of this ICD, and thereafter as requested by the DNI.

2. IC element heads shall:

a. Establish and maintain a prepublication review process, including an appeals process, that is consistent with this ICD;

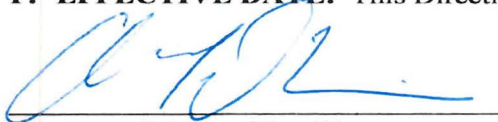
b. Ensure all non-official material submitted in prepublication review requests are reviewed only by the necessary individuals authorized to assist in completing each prepublication review and that such reviews are conducted in a manner that is timely, reasoned, impartial, and free from political or policy bias;

c. Provide training on prepublication review requirements and ensure that IC personnel, upon entry-on-duty and exit-from-duty, are aware of their obligation under IC element policy implementing this ICD to adhere to prepublication review requirements and how to access prepublication review resources and submit prepublication review requests;


d. Ensure that all current and incoming covered personnel provided access to covered intelligence are aware of prepublication review requirements;

- e. Identify a Prepublication Review Authority who serves as the liaison for referrals, and provides a final determination on prepublication review requests, and a separate Prepublication Review Appellate Authority who adjudicates appeals;
- f. Create an official record of prepublication review requests, detailing the request, IC element stakeholder coordination, the final determination, and appeals information in accordance with the records control schedule of the IC element;
- g. Establish a searchable data system that tracks prepublication review requests and related metrics, and submit metrics to ODNI COO, annually and as requested;
- h. Provide information to the ODNI COO in support of the reporting responsibility in Section E.1.c.
- i. Maintain public-facing and internal websites regarding prepublication review resources, requirements, and responsibilities, as well as instructions on how to submit non-official material for review;
- j. Revise existing NDAs consistent with the provisions of this policy; and
- k. Ensure that relevant policies and procedures for prepublication reviews are consistent with this ICD.

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



Director of National Intelligence



Date

Appendix

IC elements should maintain an up-to-date, searchable data system that tracks the following information:

- The name of the person submitting materials for prepublication review.
- The title of the submission
- The date of the submission
- The type of submission (e.g., op-ed, magazine article, book, resume)
- The page count of the submission
- Any other agencies/components to which the material was referred
- The date of referrals
- A brief description, including dates, of any communications or meetings with the submitter
- The date on which the submitter was given a final substantive response
- A summary of that response
- The date of any appeal brought by the submitter
- The date on which any appeal was resolved
- The outcome of any appeal