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NATIONAL RECONNAISSANCE OFFICE

14675 Lee Road
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Office of the Director Policy Note

Number 2019-02

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**NATIONAL RECONNAISSANCE OFFICE PROCEDURES FOR IMPLEMENTATION OF
INTELLIGENCE COMMUNITY POLICY GUIDANCE 107.1: REQUESTS FOR IDENTITIES
OF U.S. PERSONS IN DISSEMINATED INTELLIGENCE REPORTS**

1. **APPLICATION.** This policy, developed in consultation with the Director of National Intelligence (DNI), the Attorney General, and the Secretary of Defense (SecDef), implements the procedures for meeting the requirements of the Intelligence Community Policy Guidance (ICPG) 107.1, "Requests for Identities of U.S. Persons in Disseminated Intelligence Reports" (Reference c.). This policy note describes the procedures and responsibilities for responding to a requesting entity, other than the National Reconnaissance Office (NRO), for post-publication release and dissemination of masked U.S. person identity information in disseminated serialized NRO intelligence reporting (e.g., an Intelligence Report or an Intelligence Information Report). The policy and procedures apply to all NRO personnel performing an NRO mission.

2. **POLICY.** This policy applies exclusively to requests from a requesting government entity, other than the NRO, for post-publication release and dissemination of nonpublic U.S. person identity information that was masked in a disseminated serialized NRO intelligence report.

3. This policy does not affect the requirements established in Annex A, "Dissemination of Congressional Identity Information" of Intelligence Community Directive 112, "Congressional Notification" (Reference e.).

4. The Office of Policy and Strategy (OP&S) will coordinate with the Office of General Counsel and the Privacy and Civil Liberties officer within the Communications Systems Directorate on requests covered by this policy to document in writing, at the time of the request, the following information:

a. The full name and title of each individual making the request in an official capacity on behalf of the requesting entity;

b. The NRO report identification number(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; and

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d. A fact-based justification describing why such U.S. person identity information is required by each individual identified in paragraph 4c., to carry out the duties of the individual.

5. Requests covered by this policy shall be approved only by the Director, NRO (DNRO) or a designee to whom the DNRO has delegated such authority in writing.

a. When an Intelligence Community (IC) element other than the NRO originated information, in an NRO report that is subject to a request, is covered by this policy, OP&S shall obtain the concurrence of the head or designee of the originating IC element before approving the request; and

b. When a request covered by this policy is made to the NRO, and the NRO did not originate the specific report, the NRO shall defer and refer that request to the originating IC element.

6. OP&S shall retain permanent records on any request covered by this policy, including the disposition of such requests, as required by NRO Directive 56-01, "NRO Records Management" (Reference f.). Active records shall be retained for not less than five years prior to being moved to archival status. Records shall include approved and denied requests, as well as full name and title of each individual who approved or denied the request.

7. In exigent circumstances or where a delay could negatively impact intelligence activities, an immediate disclosure by an individual described in paragraph 5. to a requesting entity of U.S. person identity information may be approved based on the rationale provided by the requesting entity. The rationale may be provided orally or in writing. Within five business days after such a disclosure, the requesting entity shall provide written justification describing the basis for making the request. The written request will be coordinated in accordance with paragraph 4. of this policy.

8. In accordance with ICPG 107.1 requirements, any request that is covered by this policy that is made during a period beginning on the date of a general election for President and ending on the date on which such President-elect is inaugurated:

a. The NRO shall require the individual of a requesting government entity who is making the request 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. An individual described in paragraph 5. shall assert in writing whether or not, based on the face of the NRO report(s) to which the request pertains, that individual has knowledge or

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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. The documentation required in paragraph 4. shall include such assertions made pursuant to paragraphs 8a. and 8b. above;

d. If a requesting entity has asserted that it has knowledge or belief pursuant to paragraph 8a., or an individual described in paragraph 5. has asserted that the individual has knowledge or reasonable belief pursuant to paragraph 8b., the approval made pursuant to paragraph 5. shall be subject to the concurrence of the NRO 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 in accordance with the procedures described in paragraph 4.; and

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, the DNRO, in consultation with the DNI, shall notify the chairmen and ranking minority members of the congressional intelligence committees of any approval described in paragraph 8d. not later than 14 days after the date of such approval.

9. Not later than 1 March of each year, beginning in 2019, the NRO shall submit a report to the DNI, the congressional intelligence committees, and through the Department of Defense (DoD) Senior Intelligence Oversight Officer (SIOO) to the SecDef documenting the following information with respect to the preceding calendar year:

a. The total number of requests covered by this policy that the NRO received;

b. The number of requests that the NRO deferred and referred to another IC component;

c. Of the total received, the number of requests denied; and

d. For each number calculated under paragraph 9a. through 9c., the sum total by each requesting entity.

10. **ROLES AND RESPONSIBILITIES.**

11. The NRO shall:

a. Ensure that documentation for requests that are covered by this policy received from requesting entities includes information required by paragraph 4. and paragraph 8c., and that such

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documentation is retained for not less than 5 years, as required by paragraph 6.;

b. Consider for approval, and approve as appropriate, or further delegate such authority to consider and approve as appropriate, requests that are covered by this policy that meet the requirements as specified in paragraph 5.;

c. Ensure that approvals of requests that are covered by this policy are subject to General Counsel concurrence, as specified in paragraph 8d.;

d. Notify the congressional intelligence committees of approval of requests that are covered by this policy, as specified in paragraph 8e.; and

e. Annually submit a report to the DNI, the congressional intelligence committees, and through the DoD SIOO to the SecDef, as specified in paragraph 9.

12. OP&S shall:

a. Ensure that requesting entities, when submitting requests that are covered by this policy, provide the information necessary for documentation as required by paragraph 4. and paragraph 8c.;

b. In accordance with reporting requirements in paragraph 9., the IC's Principles of Intelligence Transparency, and, where appropriate, Executive Order 13526 (the protection of national security information), report the total numbers submitted annually for inclusion in the DNI's Statistical Transparency Report Regarding Use of National Security Authorities;

c. Create and retain records as required by paragraphs 4. through 8., and NRO Directive 56-01, "NRO Records Management" (Reference f.);

d. Compile and provide to DNRO the information necessary to fulfill the reporting requirement through DNI, the congressional intelligence committees, and through the DoD SIOO to the SecDef, as specified in paragraph 9.; and

e. Transmit and ensure receipt by the congressional intelligence committees of NRO notifications relating to the approval of requests covered by this policy, as specified in paragraph 8e., and information necessary to fulfill the reporting requirement, as specified in paragraph 9.

13. The Office of the General Counsel shall ensure that the General Counsel, or in the absence of the General Counsel, the Principal Deputy General Counsel, considers for concurrence, and as appropriate

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concur on, requests that are covered by this policy as specified in
paragraph 8d.

A handwritten signature in blue ink, appearing to read "Frank Calvelli".

Frank Calvelli
Acting Director

Attachment:
References and Definitions,
NRO Procedures for Implementation
of Intelligence Community Policy
Guidance 107.1: Requests for
Identities of U.S. Persons in
Disseminated Intelligence Reports

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ATTACHMENT 1: REFERENCES AND DEFINITIONS
NATIONAL RECONNAISSANCE OFFICE PROCEDURES FOR IMPLEMENTATION OF
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REFERENCES:

- a. Executive Order (EO) 12333, "United States Intelligence Activities," as amended.
- b. 50 United States Code 1801. Et seq., "Foreign Intelligence Surveillance Act (FISA) of 1978," as amended.
- c. Intelligence Community Policy Guidance 107.1, "Requests for Identities of U.S. Persons in Disseminated Intelligence Reports," 11 January 2018.
- d. Department of Defense (DoD) Manual 5240.01, "Procedures Governing the Conduct of DoD Intelligence Activities," 8 August 2016.
- e. Annex A, "Dissemination of Congressional Identity Information," of Intelligence Community Directive 112, *Congressional Notification*, 19 January 2017.
- f. National Reconnaissance Office (NRO) Directive 56-01, *NRO Records Management*, 8 January 2016.

DEFINITIONS:

- a. 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.
- b. Masked: The use of alternate or generic wording in data subject to dissemination that does not permit the reader to ascertain the identity of a U.S. entity that appeared in a disseminated report.
- c. U.S. Person: As defined in section 3.5 of EO 12333.
- d. U.S Person Identity information: U.S. person information, as defined in DoD Manual 5240.01, "Procedures Governing the Conduct of DoD Intelligence Activities," 8 August 2016.
- e. 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.
- f. Intelligence Report: A specific report of information, usually on a single item, made at any level of command in tactical operations and disseminated as rapidly as possible in keeping with the timeliness of the information (Joint Publication (JP) 1-02; and JP 2-01, Joint and National Intelligence Support to Military Operations, 5 January 2012).

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g. Intelligence Information Report: The primary vehicle used to provide Human Intelligence (HUMINT) information to the consumer. It utilizes a message format structure that supports automated data entry into IC databases (JP 1-02; and JP 2-01.2, Counterintelligence and HUMINT in Joint Operations, 16 March 2011 with change 1, 26 May 2011).

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