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NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
NSA/CSS POLICY 1-23

Issue Date: 11 March 2004
Revised:

(U) PROCEDURES GOVERNING NSA/CSS ACTIVITIES THAT AFFECT U.S. PERSONS

(U) PURPOSE AND SCOPE

(U) This Policy is issued to comply with DoD Directive 5240.1 (Reference a), which implements Public Law 95-511 (the Foreign Intelligence Surveillance Act of 1978, as amended; Reference b), Part 2 of Executive Order (E.O.) 12333 (Reference c), and E.O. 12863 (Reference d). It establishes procedures and assigns responsibilities to ensure that the signals intelligence (*SIGINT*) and information assurance (IA) missions of the National Security Agency/Central Security Service (NSA/CSS) are conducted in a manner consistent with the privacy rights of *U.S. persons* and as required by law, executive orders, Department of Defense (DoD) policies and instructions, and internal NSA/CSS policy.

(U) This Policy applies to all NSA/CSS elements.

MICHAEL V. HAYDEN
Lieutenant General, USAF
Director, NSA/Chief, CSS

Endorsed by
Director of Policy

Encl:
(U) Annex – Classified Annex to DoD Procedures under Executive Order 12333

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Policy 1-23 Dated: 11 March 2004

(U) This Policy 1-23 supersedes Directive 10-30, dated 20 September 1990, and Change One thereto, dated June 1998.
(U) OPI: OGC (963-3121s)
(U) The compilation of the information contained in this document should be treated as SECRET//COMINT due to the classification of the Annex; upon removal of the Annex, this document may be downgraded to CONFIDENTIAL. No section of this document shall be released without approval from the Office of Policy and Records, DC3.

(U) POLICY

1. (U) NSA/CSS shall collect, process, retain, and disseminate information about U.S. persons only as prescribed in DoD Directive 5240.1 (Reference a), DoD Regulation 5240.1-R (Reference e) and the Classified Annex to DoD Procedures under Executive Order 12333 (hereafter referred to as the Classified Annex; Reference f).

(U) PROCEDURES

2. (U) Signals Intelligence. The signals intelligence (SIGINT) mission of the NSA/CSS is to collect, process, retain, and disseminate signals intelligence information for national foreign intelligence (and counterintelligence) purposes and in support of U.S. military operations. NSA/CSS shall intentionally collect only foreign communications. NSA/CSS shall not intentionally collect U.S. person communications. The Director, NSA/Chief, CSS may authorize exceptions only pursuant to the procedures contained in DoD Regulation 5240.1-R (Reference e) and the Classified Annex thereto (Reference f).

a. (U) Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, as amended (Reference b), requires a court order issued by a judge appointed pursuant to the Act or a certification of the Attorney General of the United States issued pursuant to Section 102(a) of the Act. The Director, NSA/Chief, CSS or Deputy Director, NSA must approve applications for a court order, which must be submitted through the DoD General Counsel to the Attorney General. The Director, NSA/Chief, CSS or Deputy Director, NSA may submit requests for Section 102(a) certifications directly to the Attorney General. The Director, NSA/Chief, CSS or Deputy Director, NSA may contact the Attorney General in an emergency and the Attorney General may approve the surveillance pending subsequent court proceedings.

b. (U) Electronic surveillance, as defined in Appendix A to DoD Regulation 5240.1-R (Reference e), directed against U.S. persons who are outside the U.S. requires approval of the Attorney General. The Director, NSA/Chief, CSS or the Deputy Director may request approval of such surveillances by forwarding a request to the Attorney General. In emergency situations, as described in Procedure 5, Part 2.D., of Reference e, the Director, NSA/Chief, CSS, Deputy Director, NSA or the Signals Intelligence Director, NSA, may authorize electronic surveillance, for no more than 72 hours,

of U.S. persons who are outside the U.S. Such authorization is subject to the limitations of Procedure 5, Part 2.D. The DoD General Counsel shall be notified promptly of any such surveillance.

3. (U) Information Assurance. The information assurance (IA) mission assigned to NSA/CSS by National Security Directive (NSD) 42 (Reference g), Executive Order 12333 (Reference c), and other applicable law and policy direction includes the responsibility to examine national security systems, as that term is defined by 40 U.S.C. § 1452 (Reference h) and other applicable law, and evaluate their vulnerability to foreign interception and exploitation. In a manner consistent with the provisions of the Computer Security Act of 1987 (Reference i) and implementing procedures agreed to by NSA/CSS and the National Institute of Standards and Technology, the Agency is also authorized to provide IA support for non-national security systems. Any IA activities undertaken by the Agency, including those involving monitoring of official communications, shall be conducted in strict compliance with law, Executive Order and implementing procedures, and applicable Presidential directive. Any monitoring undertaken for communications security purposes ("COMSEC monitoring") shall be conducted in accordance with the provisions of National Telecommunications and Information Systems Security Directive (NTISSD) No. 600 (Reference j) or other special procedures approved by the Attorney General. In addition to the responsibility to conduct COMSEC monitoring and to examine national security systems for vulnerabilities to foreign exploitation, NSD 42 (Reference g) also requires NSA/CSS to disseminate information on threats to national security systems, regardless of the source of the threat. Title II of the Homeland Security Act of 2002 (Reference k) imposes similar requirements with respect to the protection of the United States' critical infrastructure. The Information Assurance Director is hereby designated to act for Director, NSA/Chief, CSS in the issuance of written approval to conduct the information assurance activities assigned to the Agency, to include the conduct of activities that may result in the collection of US person information as defined in DoD Regulation 5240.l-R (Reference e) and other applicable guidance.

(U) RESPONSIBILITIES

4. (U) The NSA General Counsel (GC) and Inspector General (IG) shall:

a. (U) Conduct appropriate oversight to prevent or detect violations of E.O. 12333, DoD Directive 5240.1 (References c and a), this Policy, and any directives and regulations issued thereunder.

b. (U) Forward to the Intelligence Oversight Board (IOB) of the President's Foreign Intelligence Advisory Board (PFIAB), through the Assistant to the Secretary of Defense (Intelligence Oversight (ATSD (IO)), reports of activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive, and provide other reports or information that the IOB or ATSD (IO) requires.

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5. (U) The NSA Inspector General shall:

a. (U) Conduct regular inspections of NSA/CSS activities for compliance with the law, executive orders, and related directives.

(S). b. (~~U//FOUO~~) Perform general oversight of the SIGINT activities of the [redacted] for compliance with Executive Order 12333 (Reference c) and related laws and directives.

c. (U) Establish reporting procedures to be followed by the Directors, Associate Directors and Principal Directors, Chiefs of NSA/CSS Field Activities, and NSA/CSS Representatives regarding their activities and practices.

d. (U) Consult with the NSA General Counsel on matters involving interpretation or possible violations of law, executive orders, or directives.

e. (U) Submit, semiannually, a comprehensive report to the Director and Deputy Director on the results of the IG's oversight activities.

f. (U) Report, as required by E.O. 12333 and 12863 (References c and d) and other authorities, to the ATSD (IO) and the IOB.

6. (U) The NSA General Counsel shall:

a. (U) Provide legal advice and assistance to all NSA/CSS elements regarding the activities covered by this Policy.

b. (U) Assist NSA/CSS activities as requested in developing such guidelines and working aids as are necessary to ensure compliance with this Policy.

c. (U) Assist the NSA Inspector General in inspections and oversight of NSA/CSS activities, as required.

d. (U) Review and assess for legal implications, as requested by the Director NSA/Chief CSS, Deputy Director NSA, SIGINT Director, IA Director, Associate Directors, Principal Directors, or the Inspector General, all new major requirements and internally generated NSA/CSS activities.

e. (U) Advise the Director NSA/Chief CSS, Deputy Director NSA, SIGINT Director, IA Director, Inspector General, Principal Directors, and Associate Directors of new legislation and case law which may have an impact on NSA/CSS missions, functions, operations, activities, or practices.

f. (U) Prepare and forward through DoD to the Attorney General any proposed changes to existing procedures or new procedures required by E.O. 12333 (Reference c) or Public Law 95-511 (Reference b).

g. (U) Report as required by E.O. 12333 and 12863 (References c and d) to the IOB and provide copies of such reports to the Director and affected NSA/CSS elements.

h. (U) Prepare and process applications for court orders or certifications for electronic surveillance pursuant to the Foreign Intelligence Surveillance Act (Reference b) in accordance with Procedure 5, Part 1, of DoD Regulation 5240.1-R (Reference e).

i. (U) Prepare and process requests to the Attorney General for electronic surveillance of unconsenting U.S. persons who are outside the U.S. in accordance with Procedure 5, Part 2 of DoD Regulation 5240.1-R (Reference e).

j. (U) Process requests from any DoD intelligence component, including NSA/CSS, for authority to use signals as described in Procedure 5, Part 5, of DoD Regulation 5240.1-R (Reference e), for periods in excess of 90 days in the development, test, or calibration of electronic equipment that can intercept communications and other electronic surveillance equipment. Forward processed requests to the Attorney General for approval when required.

7. (U) The SIGINT Director, IA Director, Associate Directors, the NSA/CSS Chief of Staff, Principal Directors and Chiefs of NSA/CSS Field Activities shall:

a. (U) Appoint an intelligence oversight coordinator or senior level official to oversee intelligence oversight within each major element.

b. (U) Provide training to all *employees* (including contractors and integrees) in order to maintain a high degree of sensitivity to, and understanding of, the laws and authorities referenced in this Policy. Such training shall include both core and advanced intelligence oversight training and refresher training with appropriate testing. All employees shall receive core training, and those with exposure to U.S. person information shall receive appropriate advanced training. Training shall be required at least annually (or more often commensurate with the level of exposure to U.S. person information by the employee). Newly hired employees and reassignees, including contractor personnel and integrees, must be trained upon assignment. Managers shall keep records of training for all employees. The training must cover: E.O. 12333 (Reference c); Procedures 1-4, 14 and 15 of DoD Regulation 5240.1-R (Reference e); other Procedures of the Regulation that apply to the assigned mission; and this policy. Employees involved in the SIGINT process must be familiar with U.S. SIGINT Directive 18 (USSID 18) (Reference l), and employees involved in COMSEC monitoring must be familiar with NTISSD 600 (Reference j).

c. (U) Apply the provisions of this Policy to all activities under their cognizance and ensure that all publications (U.S. SIGINT Directives, National COMSEC Instructions, NSA/CSS Management and Administrative Publications, etc.) and instructions for which they are responsible are in compliance with this Policy.

d. (U) Conduct a periodic review of the activities and practices conducted in or under the cognizance of their respective organizations to ensure consistency with the laws and authorities listed in the References section of this Policy.

e. (U) Ensure that all new major requirements levied on NSA and the U.S. Cryptologic System or internally generated NSA/CSS activities are considered for review and approval by the General Counsel. All activities that may raise a question of law or regulation must be reviewed by the General Counsel prior to acceptance or execution.

f. (U) Ensure that necessary special security clearances and access authorizations are provided to the General Counsel and Inspector General to enable them to meet their assigned responsibilities.

g. (U) Report as required and otherwise assist the Inspector General and General Counsel in carrying out their responsibilities to include providing input to the Inspector General for preparation of the joint Inspector General/General Counsel/Director, NSA/CSS quarterly report to the Assistant to the Secretary of Defense (Intelligence Oversight) and the IOB.

h. (U) Develop, in coordination with the General Counsel and Inspector General as required, such specific guidelines and working aids as are necessary to ensure compliance with this Policy. Such guidelines and working aids should be available to employees at all times and must be reviewed by management with employees at least annually.

(U) REFERENCES

8. (U) References:

a. (U) DoD Directive 5240.1, DoD Intelligence Activities, dated: 25 April 1988. http://netinfo.si.nsa/ExternalNSA/www.dtic.mil/whs/directives/corres/pdf/d52401_042588/d52401p.pdf

b. (U) Foreign Intelligence Surveillance Act of 1978, Public Law No. 95-511 as amended, 50 U.S.C. 1801 et seq. http://www.n.nsa/GC/practgrps/ops/ops.html

c. (U) Executive Order 12333, United States Intelligence Activities, dated: 4 December 1981. http://www.n.nsa/IG/eo1233.html

d. (U) Executive Order 12863, President's Foreign Intelligence Advisory Board, dated: 13 September 1993.

e. (U) DoD Regulation 5240. l-R, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons, dated: 7 December 1982. http://www.n.nsa/IG/5240.html

f. (U) Classified Annex to Department of Defense Procedures Under Executive Order 12333.

g. (U) National Security Directive (NSD) 42, National Policy for the Security of National Security Telecommunications and Information Systems, dated: 5 July 1990.

h. (U) Information Technology Reform Act of 1996, Division E of Public Law 104-106, as codified at 40 U.S.C. 1401 et seq.

i. (U) Computer Security Act of 1987.

j. (U) National Telecommunications and Information Systems Security Directive No. 600, Communications Security (COMSEC) Monitoring, dated: 10 April 1990.

k. (U) Title II of the Homeland Security Act of 2002, Public Law 107-296.

l. (U) United States Signals Intelligence Directive (USSID) 18, dated: 27 July 1993.

m. (U) National Security Council Intelligence Directive (NSCID) No. 6, dated: 17 February 1972.

(U) DEFINITIONS

9. (U) SIGINT - SIGINT comprises communications intelligence, electronics intelligence, and foreign instrumentation signals intelligence, either individually or in combination. Communications intelligence (COMINT) is defined as "technical and intelligence information derived from foreign communications by other than the intended recipients . . ." and " . . . the collection and processing of foreign communications passed by radio, wire, or other electromagnetic means." NSCID 6 (Reference m), Sec. 4(b). Electronics intelligence (ELINT) consists of foreign electromagnetic radiations such as emissions from a radar system. Foreign instrumentation signals intelligence (FISINT) includes signals from telemetry, beaconry, etc.

10. ~~(C)~~ U.S. Person -

a. (U) A citizen of the United States;

b. (U) An alien lawfully admitted for permanent residence in the United States;

c. (U) Unincorporated groups and associations a substantial number of the members of which constitute a or b above, or

d. (U) Corporations incorporated in the United States, including U.S. flag nongovernmental aircraft or vessels, but not including those entities which are openly acknowledged by a foreign government or governments to be directed and controlled by them. USSID 18 (Reference l), Section 9.18.

~~(C)~~ The following additional definition applies to the Classified Annex (Reference f). For purposes of intentionally collecting the communications of a particular person, the term "United States person," in addition to the meanings outlined above, includes any alien known to be presently in the United States; any unincorporated association of such aliens or American citizens; the United States operations, office, branch, or representative of a corporation incorporated abroad; any corporation or corporate subsidiary incorporated in the United States; and any U.S. flag non-governmental aircraft or vessel; Provided however, that the term "U.S. person" shall not include [redacted] or (ii) a foreign power or powers as defined in Section 101 (a)(1)-(3) of FISA. Classified Annex (Reference f), Section 2.

11. (U) Employee - A person employed by, assigned to, or acting for an agency within the intelligence community, including contractors and persons otherwise acting at the direction of such an agency. DoD Regulation 5240.1-R (Reference e), Appendix A, Definitions.

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(b)(3)-P.L. 86-36

(U) ANNEX

(U) CLASSIFIED ANNEX TO DEPARTMENT OF DEFENSE PROCEDURES UNDER EXECUTIVE ORDER 12333

Sec. 1: Applicability and Scope (U)

(~~S//SI~~) These procedures implement sections 2.3, 2.4, and 2.6 (c) of Executive Order 12333 and supplement Procedure 5 of DoD Regulation 5240.1-R, previously approved by the Secretary of Defense and the Attorney General. They govern the conduct by the United States Signals Intelligence System of signals intelligence activities that involve the collection, retention and dissemination of communications originated or intended for receipt in the United States, and signals intelligence activities that are directed intentionally against the communications of a United States person who is outside the United States. These procedures also govern the collection, retention and dissemination of information concerning United States persons that is collected by the United States Signals Intelligence System including such activities undertaken by the [redacted] These procedures do not apply to signals intelligence activities that are not required under Executive Order 12333 to be conducted pursuant to procedures approved by the Attorney General. [redacted] Except for matters expressly authorized herein, the limitations contained in Department of Defense Regulation 5240.1-R also apply to the United States Signals Intelligence System. Reference should be made to those procedures with respect to matters of applicability and scope, definitions, policy and operational procedures not covered herein.

Sec. 2: Definitions (U)

(U) The following additional definitions or supplements to definitions in DoD Regulation 5240.1-R apply solely to this Classified Annex:

(~~S//SI~~) Agent of a Foreign Power. For purposes of signals intelligence activities which are not regulated by the Foreign Intelligence Surveillance Act (FISA), the term "agent of a foreign power" means:

(a) a person who, for or on behalf of a foreign power, is engaged in clandestine intelligence activities, sabotage, or international terrorist activities, or activities in preparation for international terrorist activities, or who conspires with, or knowingly aids and abets such a person engaging in such activities;

(b) a person who is an officer or employee of a foreign power;

(c) a person unlawfully acting for, or pursuant to the direction of, a foreign power. The mere fact that a person's activities may benefit or further the aims of a foreign power is not enough to bring that person under this subsection, absent evidence that the person is taking direction from, or acting in knowing concert with, the foreign power;

(d) a person in contact with or acting in collaboration with an intelligence or security service of a foreign power for the purpose of providing access to information or material classified by the United States to which such person has or has had access; or

(e) a corporation or other entity that is owned or controlled directly or indirectly by a foreign power.

(U) Communicant. The term "communicant" means a sender or intended recipient of a communication.

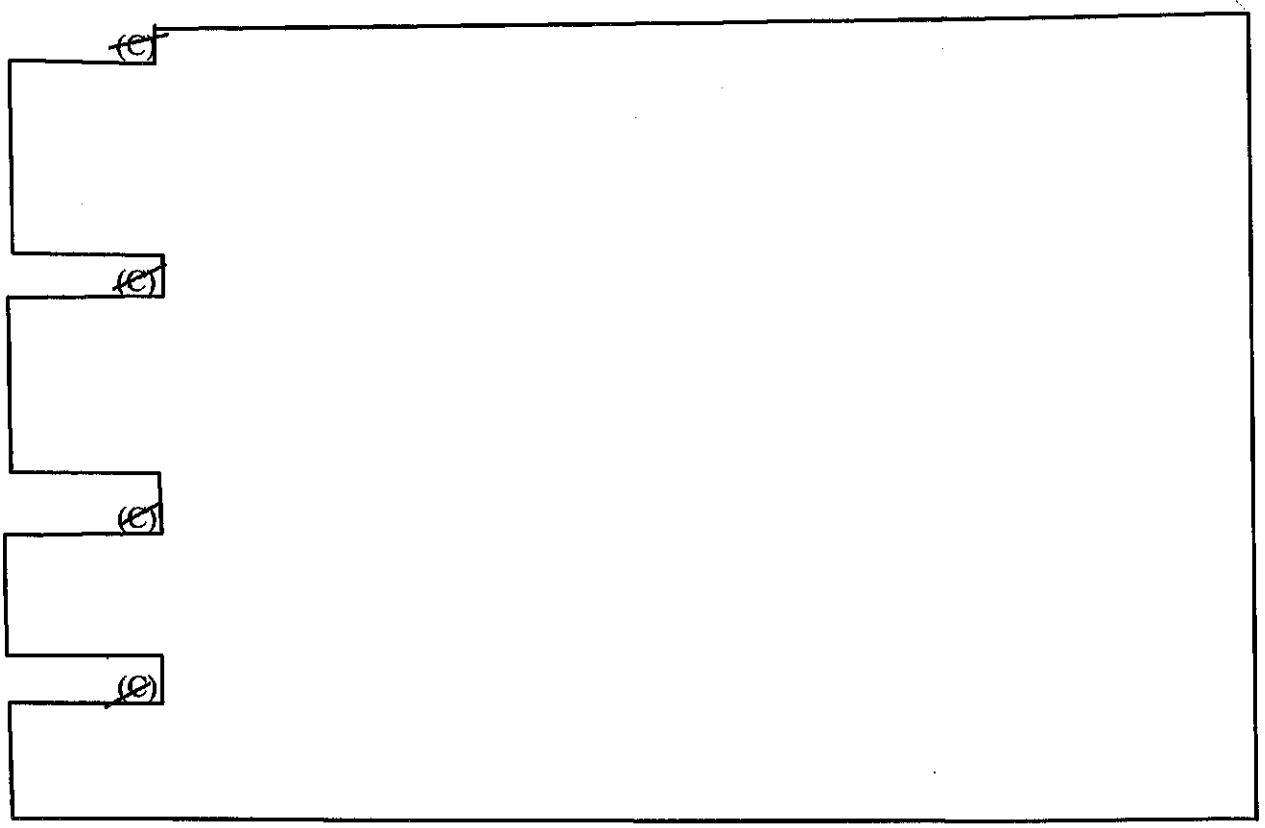
(U) Consent. For the purposes of signals intelligence activities, an agreement by an organization with the National Security Agency to permit collection of information shall be deemed valid consent if given on behalf of such organization by an official or governing body determined by the General Counsel, National Security Agency, to have actual or apparent authority to make such an agreement.

(~~S//SI~~) Foreign Communication. The term "foreign communication" means a communication that involves a sender or an intended recipient who is outside the United States or that is entirely among foreign powers or between a foreign power and officials of a foreign power.

(U) Foreign Intelligence. The term "foreign intelligence" includes both positive foreign intelligence and counterintelligence.

(~~C~~)

(U) Interception. The term "interception" means the acquisition by the United States Signals Intelligence System through electronic means of a nonpublic communication to which it is not an intended party, and the processing of the contents of that communication into an intelligence form but not including the display of signals on visual display devices intended to permit the examination of the technical characteristics of the signal without reference to the information content carried by the signal.



(U) Technical Data Base. The term "technical data base" means information retained for cryptanalytic or traffic analytic purposes.

(U) Transiting Communications. The term "transiting communications" includes all communications that neither originate nor terminate in the United States. but which transit the United States during transmission.

~~(C)~~ United States Person. For purposes of intentionally collecting the communications of a particular person, the term "United States person," in addition to the meaning in the Appendix to DoD Regulation 5240.1-R, includes any alien known to be presently in the United States; any unincorporated association of such aliens or American citizens; the United States operations, office, branch, or representative of a corporation incorporated abroad; any corporation or corporate subsidiary incorporated in the United States; and any U.S. flag non-

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governmental aircraft or vessel: Provided, however, that the term "U.S. person" shall not include [redacted] or (ii) a foreign power or powers as defined in Section 101 (a)(1)-(3) of FISA.

Sec. 3: Policy (U)

(U) The Director, National Security Agency, is assigned responsibility for signals intelligence collection and processing activities and communications security activities. In order to assure that these activities are conducted in accordance with the provisions of Executive Order 12333, the Director, or his designee, will issue appropriate directives and instructions implementing these procedures and governing the conduct of the United States Signals Intelligence System and the activities of communications security entities.

~~(C)~~ It is the policy of the United States Signals Intelligence System to collect, retain, and disseminate foreign communications and military tactical communications. It is recognized, however, that the United States Signals Intelligence System may incidentally intercept non-foreign communications, including those of or concerning United States persons, in the course of authorized collection of foreign communications. The United States Signals Intelligence System makes every reasonable effort, through surveys and technical means, to reduce to the maximum extent possible the number of such incidental intercepts acquired in the conduct of its operations. Information derived from these incidentally intercepted non-foreign communications may be disseminated to the Federal Bureau of Investigation when the information is foreign intelligence or counterintelligence or indicates a threat to the physical safety of any person. Dissemination of such information is also governed by these procedures and applicable minimization procedures approved in accordance with FISA. Specific communications sent from or intended for receipt by the United States persons are not intercepted deliberately by the United States Signals Intelligence System unless specific authorization for such interception has been obtained in accordance with these procedures.

~~(S//SI)~~ The President has authorized, and the Attorney General hereby specifically approves, interception by the United States Signals Intelligence System of:

[redacted]

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* United States and Allied Military exercise communications;

* Signals collected during the search of the signals environment for foreign communications that may be developed into sources of signals intelligence;

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* Signals collected during the monitoring of foreign electronic surveillance activities directed at United States communications consistent with the Foreign Intelligence Surveillance Act of 1978; and

* Signals collected during the testing and training of personnel in the use in the use of signals intelligence collection equipment in the United States consistent with the Foreign Intelligence Surveillance of 1978.

Sec. 4: Procedures (U)

[redacted]

1. Collection

(a) (~~S//SI~~) Communications of or concerning a United States person may be intercepted intentionally [redacted] only:

(1) with the consent of such United States person. Where a United States person has consented, by completion of the appropriate Consent Agreement appended hereto, [redacted] or

(2) with specific prior court order pursuant to the Foreign Intelligence Surveillance Act of 1978 where applicable. All United States Signals Intelligence System requests for such court orders or approvals shall be forwarded by the Director, National Security Agency for certification by the Secretary of Defense or the Deputy Secretary of Defense (in case of the unavailability of both of these officials and in emergency situations, certification may be granted by another official authorized by executive order to certify such requests), and thence to the Attorney General; or

(3) with the specific prior approval of the Director, National Security Agency, in any case in which the United States person is reasonably believed to be held captive by a foreign power or by a group engaged in international terrorist activities. The Attorney General will be notified when the Director authorizes selection of communications concerning a United States person pursuant to this provision; or

(4) with specific prior approval by the Attorney General based on a finding by the Attorney General that there is probable cause to believe the United States person is an agent of a foreign power and that the purpose of the interception or selection is to collect significant

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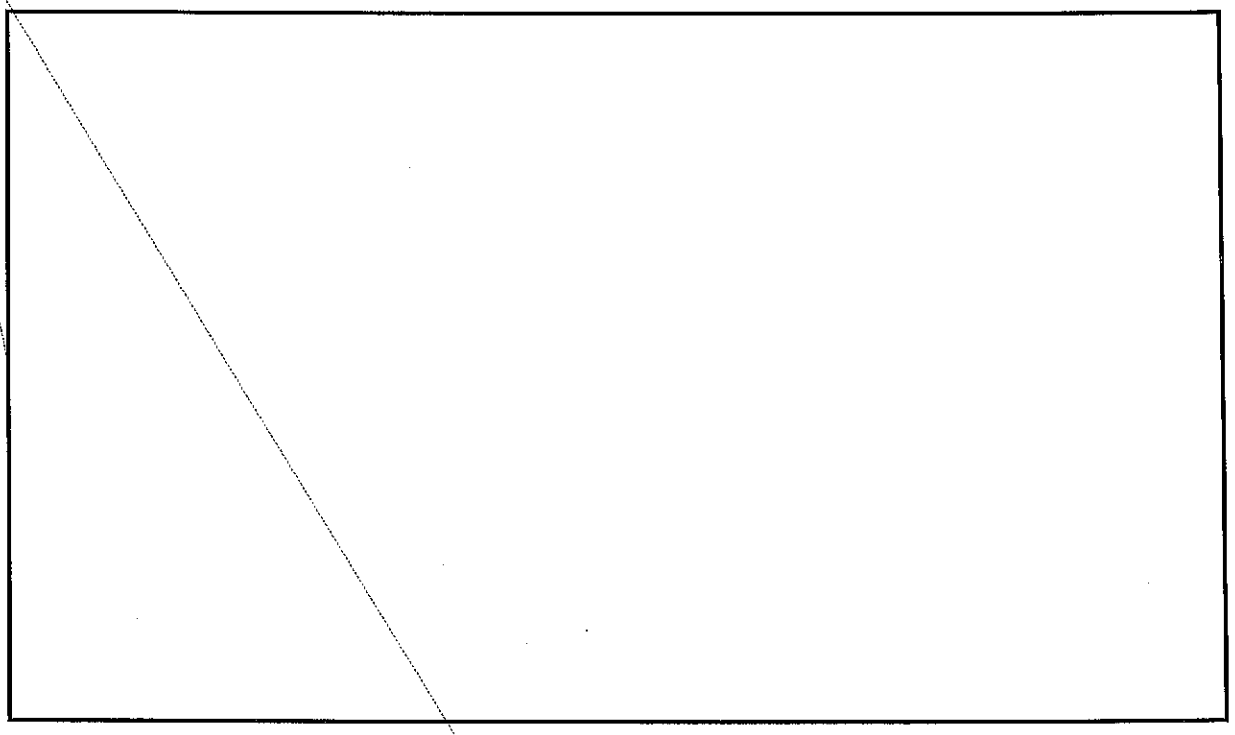
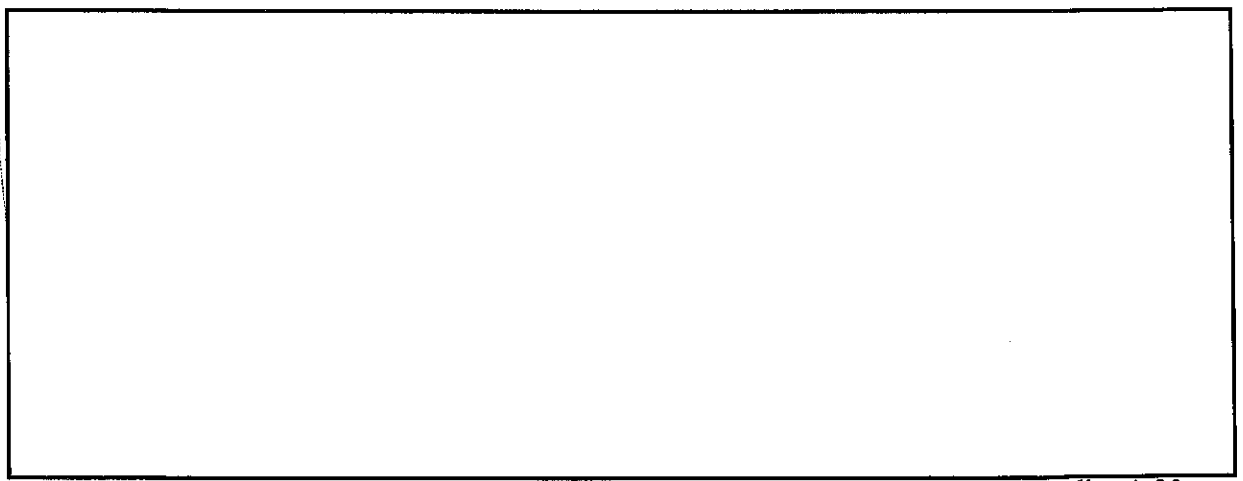
foreign intelligence. Such approvals shall be limited to a period of time not to exceed ninety days for individuals and one year for entities.



(d) ~~(S//SI)~~ Emergencies:

(1) The emergency provision in Section D of Part 2, Procedure 5, of DoD 5240.1-R, may be employed to authorize [redacted] communications of, or concerning, a United States persons defined in the Appendix to DoD Regulation 5240.1-R, when that person is outside the United States.



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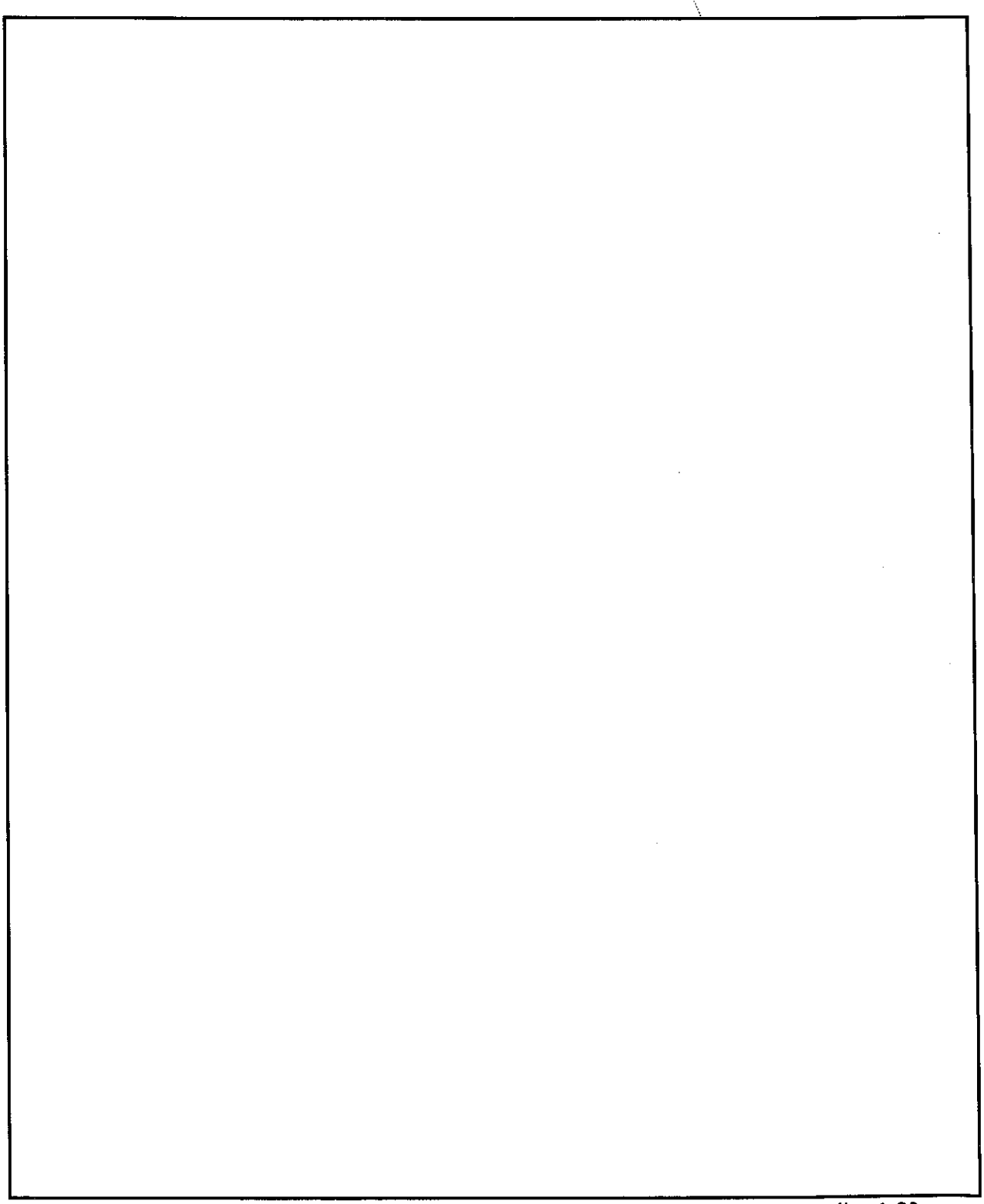

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2. Retention (U)

~~(S//SI)~~ Foreign communications of, or concerning, United States persons that are intercepted by the United States Signals Intelligence System may be retained in their original form or as transcribed only:

(a) if processed so as to eliminate any reference to United States persons;

(b) if necessary to the maintenance of technical data bases. Retention for this purpose is permitted for a period sufficient to allow a thorough exploitation and to permit access to data that are, or are reasonably believed likely to become, relevant to a current or future intelligent requirement. Sufficient duration may vary with the nature of the exploitation. In the context of a cryptanalytic effort, sufficient duration may consist of a period of time during which encrypted material is subject to, or of use in, cryptanalysis. In the case of international commercial communications that may contain the identity of United States persons and that are not enciphered or otherwise thought to contain secret meaning, sufficient duration is one year unless the Deputy Director for Operations, National Security Agency, determines in writing that retention for a longer period is required to respond to authorized foreign intelligence or counterintelligence requirements; or

(c) if dissemination of such communications without elimination of references to such United States persons would be permitted under section 4.A.4 below.

3. Processing (U)

(a) ~~(S//SI)~~ Foreign communications of, or concerning, United States persons must be processed in accordance with the following limitations:

[redacted]

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[redacted]

4. Dissemination (U)

~~(C//SI)~~ Dissemination of signals intelligence derived from foreign communications of, or concerning, United States persons is governed by Procedure 4 of DoD Regulation 5240.1-R. Dissemination of signals intelligence shall be limited to authorized signals intelligence consumers in accordance with requirements and tasking established pursuant to Executive Order 12333. Dissemination of information that is not pursuant to such requirements or tasking that constitutes foreign intelligence or counterintelligence or that is otherwise authorized under Procedure 4 shall be limited to those departments or agencies that have subject matter responsibility. Dissemination of the identity of a United Stated person is authorized if it meets

one of the following criteria, each of which is also deemed to meet the standard of "necessary to understand or assess" the importance of foreign intelligence information (otherwise, the identity of the United States person must be replaced by a generic term, e.g., United States citizen or United States corporation):

(a) The United States person has consented to the use of communications of or concerning him or her and has executed the applicable consent form;

(b) the information is available publicly;

(c) the identity of the United States person is that of a senior official in the Executive Branch. When this exemption is applied, the Deputy Director for Operations, National Security Agency, will ensure that domestic political or personal information is not retained or disseminated;

(d) the communication or information indicates that the United States person may be an agent of a foreign power;

(e) the communication or information indicates that the United States person may be:

(1) a foreign power as defined in Section 101 (a)(4) or (6) of FISA;

(2) residing outside the United States and holding an official position in the government or military forces of a foreign power such that information about his or her activities would constitute foreign intelligence;

(3) a corporation or other entity that is owned or controlled directly or indirectly by a foreign power; or

(4) acting in collaboration with an intelligence or security service of a foreign power and the United States person has, or has had, access to information or material classified by the United States;

(f) the communication or information indicates that the United States person may be the target of intelligence activities of a foreign power;

(g) the communication or information indicates that the United States person is engaged in the unauthorized disclosure of classified national security information;

(h) the communication or information indicates that the United States person may be engaging in international terrorist activities;

(i) the interception of the United States person's communications was authorized by a court order issued pursuant to Section 105 of FISA or by Attorney General approval issued

pursuant to Section 4.A.1 of this annex and the communication may relate to the foreign intelligence or counterintelligence purpose of the surveillance;

(j) the communication or information indicates a possible threat to the safety of a person or organization, including those who are targets, victims, or hostages of international terrorist organizations;

(k) the communication or information indicates that the United States person may be engaged in international narcotics trafficking activities;

(l) the communication or information is evidence that a crime has been, is being, or is about to be committed, provided that dissemination is for law enforcement purposes; or

(m) the identity of the United States person is otherwise necessary to understand foreign intelligence or counterintelligence or assess its importance. Access to technical data bases will be restricted to signals intelligence collection and analytic personnel. Requests for access from other personnel or entities shall be referred to the Deputy Director for Operations, National Security Agency. Domestic communications in which all communicants are United States persons shall be disposed of upon recognition, provided that technical data concerning frequency and channel usage may be retained for collection avoidance purposes.

B. ~~(C)~~

C. ~~(C)~~

D. ~~(C)~~ Signals Intelligence: Search and Development. The United States Signals Intelligence System may conduct search and development activities with respect to signals throughout the radio spectrum under the following limitations:

1. Collection. Signals may be collected only for the purpose of identifying those signals that:

(a) may contain information related to the production of foreign intelligence or counterintelligence;

(b) are enciphered or appear to contain secret meaning;

(c) are necessary to ensure efficient signals intelligence collection or to avoid the collection of unwanted signals; or

(d) reveal vulnerability of United States communications security.

2. Retention and Processing. Communications originating or intended for receipt in the United States, or originated or intended for receipt by United States persons, shall be processed in accordance with Section 4.A.3, provided that information necessary for cataloging the constituent elements of the signal environment may be produced and retained if such information does not identify a United States person. Information revealing a United States communications security vulnerability may be retained.

3. Dissemination. Information necessary for cataloging the constituent elements of the signal environment may be disseminated to the extent such information does not identify United States persons, except that communication equipment nomenclature may be disseminated. Information that reveals a vulnerability of United States communications security may be dissemination to the appropriate security authorities.

E. ~~(S//SI)~~

F. (U) Assistance to the Federal Bureau of Investigation.

1. In accordance with the provisions of Section 2.6 (c) of E.O. 12333, the National Security Agency may provide specialized equipment and technical knowledge to the Federal Bureau of Investigation to assist the Bureau in the conduct of its lawful functions. When requesting such assistance, The Federal Bureau of Investigation shall certify to the General Counsel, National Security Agency, that such equipment or technical knowledge is necessary to accomplishment of one or more of the Bureau's lawful functions.

2. The National Security Agency may also provide expert personnel to assist Bureau personnel in the operation or installation of specialized equipment when that equipment is to be employed to collect foreign intelligence or counterintelligence. When requesting the assistance of expert personnel the Federal Bureau of Investigation shall certify to the General Counsel, National Security Agency, that such assistance is necessary to collect foreign intelligence or counterintelligence and that the approval of the Attorney General (and when necessary a order from a court of competent jurisdiction) has been obtained.

//s//
William R. Taft
DEPUTY SECRETARY OF DEFENSE
26 April 1988

//s//
Edwin Meese III
ATTORNEY GENERAL
27 May 1988

~~SECRET//COMINT//X1~~

Executive Order 12333
Consent Agreement
Signals Intelligence Coverage

I. _____(full name)_____, _____title_____, herby consent to the National Security Agency undertaking to seek and disseminate communications to or from or referencing me in foreign communications for the purpose of _____.

This consent applies to administrative messages alerting elements of the United States Signals intelligence System to this consent as well as to any signals intelligence reports which may relate to the purpose stated above.

Except as otherwise provided by Executive Order 12333 procedures, this consent covers only information which relates to the purpose stated above and is effective for the period: _____.

Signals intelligence reports containing information derived from communication so or from me may only be disseminated to me and to _____. Signals intelligence reports containing information derived from communication referencing me may only be disseminated to me and to [names of departments and agencies, e.g., DoD, CIA, etc] except as otherwise permitted by procedures under Executive Order 12333.

(SIGNATURE)
(TITLE)

(UNCLASSIFIED until completed. Classify completed form based on information added, but not lower than CONFIDENTIAL.)

Annex to Policy 1-23
Dated: 11 March 2004

Executive Order 12333
Consent Agreement
Signals Intelligence Coverage

I. _____(full name)_____, _____title_____, herby consent to the National Security Agency undertaking to seek and disseminate references to me in foreign communications for the purpose of _____.

This consent applies to administrative messages alerting elements of the United States Signals intelligence System to this consent as well as to any signals intelligence reports which may relate to the purpose stated above.

Except as otherwise provided by Executive Order 12333 procedures, this consent covers only references to me in foreign communications and information derived there from which relates to the purpose stated above. This consent is effective for the period:

_____.

Signals intelligence reports containing information derived from communications referencing me and related to the purpose stated above may only be disseminated to me and to [names of departments and agencies, e.g., DoD, CIA, etc] except as otherwise permitted by procedures under Executive Order 12333.

(SIGNATURE)
(TITLE)

(UNCLASSIFIED until completed. Classify completed form based on information added, but not lower than CONFIDENTIAL.)

Annex to Policy 1-23
Dated: 11 March 2004