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**(U) Dissemination of US Person Information Among  
Elements of the US Intelligence Community**

23 June 2010

- Section 2.3 of Executive Order 12333, as amended, requires each element of the Intelligence Community “to collect, retain, or disseminate information concerning United States persons only in accordance with procedures established by the head of the Intelligence Community element concerned or by the head of a department containing such element and approved by the Attorney General.”
- Because of a Supreme Court ruling in 1967 and subsequent cases in which the federal courts have held that the Government’s interception of non-public communications to or from US persons implicates the Fourth Amendment’s protection against unreasonable searches and seizures, NSA’s SIGINT activities under EO 12333 are subject to additional restrictions than most other categories of intelligence collection.
- In particular, Section 2.3 of EO 12333 states, “elements of the Intelligence Community may disseminate information to each appropriate element within the Intelligence Community for purposes of allowing the recipient element to determine whether the information is relevant to its responsibilities and can be retained by it, *except that information derived from signals intelligence may only be disseminated or made available to Intelligence Community elements in accordance with procedures established by the Director [of National Intelligence] in coordination with the Secretary of Defense and approved by the Attorney General.*” (emphasis added)
- Moreover, in 1978, Congress enacted the Foreign Intelligence Surveillance Act (FISA) to regulate four categories of electronic surveillance that Congress determined were most likely to adversely affect the privacy interests of US persons.
- For NSA activities that are regulated by the FISA, NSA may only collect, process, retain, or disseminate the collection in accordance with the applicable set of minimization procedures that have been adopted by the Attorney General and approved by the Foreign Intelligence Surveillance Court.
- In short, although the Government possesses authority to revise NSA’s various sets of minimization procedures to provide NSA greater authority to share SIGINT information with other IC elements, access to unevaluated and unminimized signals intelligence information will continue to require adherence to constitutionally reasonable procedures approved by the Attorney General and, in the case of FISA collection, the Foreign Intelligence Surveillance Court.

Approved for Release by NSA on 09-19-2014, FOIA Case # 70809 (Litigation)

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