U.S. Department of Homeland Security
United States Coast Guard

Commandant
U. S. Coast Guard

2100 Second Street S.W.
Washington, DC 20593-0001
Staff Symbol: (G-C2)
Phone: (202) 267-6354
FAX: (202) 267-6954

Document reviewed and determined to be publicly releasable in its entirety.

CAPT Katherine F. Tiongson, USCG
Office Chief, Intel Policy (CG-25)

COMDTINST M3820.12
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COMMANDANT INSTRUCTION M3820.12

Subj: COAST GUARD INTELLIGENCE ACTIVITIES

1. PURPOSE. This Manual establishes the mission of the Coast Guard National Intelligence Element and sets forth policies and procedures for the conduct of intelligence activities by the Coast Guard National Intelligence Element and oversight of those activities.

2. ACTION. Area and district commanders, commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel, and special staff offices at Coast Guard Headquarters shall ensure compliance with the provisions of this Manual. This Manual is For Official Use Only (FOUO). Internet release of this Manual is not authorized.

3. DIRECTIVES AFFECTED. Where provisions of the Coast Guard Intelligence Manual, COMDTINST MS3800.1 (series) conflict with provisions of this Manual, this Manual shall control.

4. DISCUSSION.

   a. Coast Guard Intelligence Program. The Coast Guard Intelligence Program consists of two parts: the National Intelligence Element and Law Enforcement Intelligence Program. The Law Enforcement Intelligence Program describes the collection, retention, and dissemination of information pursuant to Coast Guard law enforcement and regulatory authority. Activities conducted under the Law Enforcement Intelligence Program are not described in this Manual. The National Intelligence Element conducts "intelligence activities," as described in Executive Order 12333, and this Manual, including the

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collection, retention, and dissemination of national intelligence (foreign intelligence and counterintelligence).

b. Coast Guard National Intelligence Element. The National Security Act of 1947, as amended (50 U.S.C. § 401a), provides that the "intelligence element of the Coast Guard" is part of the Intelligence Community (IC). The term "intelligence element of the Coast Guard" as used in the National Security Act of 1947 describes the National Intelligence Element of the Coast Guard Intelligence Program, but excludes the Law Enforcement Intelligence Program. Those terms are defined in Enclosure (1).

c. Authority to conduct intelligence activities. The authority of the Coast Guard National Intelligence Element to conduct intelligence activities is derived from Part 1.4 of Executive Order 12333, which provides that the agencies of the IC shall, in accordance with applicable United States law and other provisions of Executive Order 12333, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(1) Collection of information needed by the President, National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(2) Production and dissemination of intelligence;

(3) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(4) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(5) Such other intelligence activities, including special activities, as the President may direct from time to time.

d. Mission. Subject to guidance provided by the Director of Central Intelligence, the Commandant and the Assistant Commandant for Intelligence, utilizing the National Intelligence Element of the Coast Guard, shall:

(1) Collect, produce, and disseminate military and military-related foreign intelligence and counterintelligence;

(2) Collect, produce, and disseminate foreign intelligence and counterintelligence necessary for the Commandant and Secretary of Homeland Security to meet national and departmental intelligence responsibilities, including intelligence related to international narcotics trafficking, international terrorism, international illegal

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maritime alien migration, international fisheries and international environmental threats; and

(3) Conduct counterintelligence activities inside the United States in coordination with the Federal Bureau of Investigation, and outside the United States in coordination with the Central Intelligence Agency.

e. Specific Responsibilities.

(1) Assistant Commandant for Intelligence. As directed in Executive Order 13286, the Assistant Commandant for Intelligence, U.S. Coast Guard shall carry out the responsibilities of the Senior Official of the Intelligence Community (SOIC) for the Coast Guard National Intelligence Element, including those provided in this Manual.

(2) Chief Counsel. The Chief Counsel, U.S. Coast Guard, shall ensure appropriate oversight of intelligence activities within the Coast Guard, and shall report to the General Counsel of the Department and Intelligence Oversight Board as necessary in order to ensure compliance with the provisions of Executive Order 12863. Legal Officers and chiefs of offices on the Chief Counsel's staff with responsibility for advising Coast Guard national intelligence components shall ensure the performance of intelligence oversight functions assigned to the servicing legal office in this Manual. To ensure necessary independence of oversight functions, Attorney-Advisors attached to Coast Guard national intelligence components shall report as follows on intelligence oversight matters:

(a) Legal Advisor, Intelligence Directorate in Headquarters reports to Chief, Office of Maritime and International Law;

(b) Legal Advisor, Atlantic Area Maritime Intelligence Fusion Center reports to Chief, Legal Division, Maintenance and Logistics Command Atlantic; and

(c) Legal Advisor, Pacific Area Maritime Intelligence Fusion Center reports to Chief, Legal Division, Maintenance and Logistics Command Pacific.

f. Inspector General. Nothing in this Manual shall interfere with the authority and function of the Inspector General with respect to criminal investigations of civilian employees, investigations and audits of Coast Guard activities, or intelligence oversight functions assigned to the Inspector General under Executive Order 12863. The Inspector General shall have access to any information necessary to perform duties assigned by law or related to this Manual, subject to law and policy governing the protection of intelligence sources and methods.

g. Procedures Governing Intelligence Activities. Section 2.3 of Executive Order 12333 requires each IC element to develop procedures for the conduct of intelligence activities, including policies governing the collection, retention, and dissemination of information concerning United States persons. The procedures provided for in this Manual were drafted in coordination with and reviewed by the Department of Justice, Office of

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Intelligence Policy and Review, Counsel to the Director of Central Intelligence, Central Intelligence Agency Office of General Counsel, National Security Agency Office of General Counsel, and Office of Naval Intelligence. These procedures are intended to comply with Executive Order 12333.

h. Definitions. This Manual shall be read and carried out with careful reference to Enclosure (1). Hereafter, defined terms appear in *italics* when first used and are contained in Enclosure (1). Terms with meanings unique to a specific procedure are defined within that Procedure.

i. Applicability. Within the Coast Guard, only the *Coast Guard National Intelligence Element* conducts *intelligence activities*, as defined in Executive Order 12333. The terms *national intelligence, foreign intelligence*, and *counterintelligence* shall be used to describe the functions of the Coast Guard National Intelligence Element. To avoid confusion, Coast Guard units, staffs or personnel authorized to collect *law enforcement intelligence* or conduct other information-gathering functions pursuant to law enforcement or regulatory authority should use the term *law enforcement intelligence* to describe those functions. Additionally, the following definitions contained in Enclosure (1) are applicable service wide:

(1) *Foreign intelligence*;

(2) *Counterintelligence*;

(3) *Clandestine*; and

(4) *Covert.*

j. This Manual is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, or personnel, or any person.

k. In cases of apparent conflict between this Manual and provisions of statutes, executive orders, or regulations, the statutes, regulations or Executive orders shall be applied, and the Assistant Commandant for Intelligence shall be advised of the apparent conflict at the earliest opportunity.

5. CHANGES. Requests for changes to this Manual shall be made via the chain of command to the Assistant Commandant for Intelligence, who shall obtain the written concurrence of the Chief Counsel and, if required, the Attorney General for these changes.

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6. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this directive and have been determined to be not applicable.

7. FORMS/REPORTS. None.

STEPHEN W. ROCHON
Acting Assistant Commandant for Intelligence

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PROCEDURE 1

GENERAL PROVISIONS

A. Applicability.

1. Except as otherwise specified, these procedures apply only to the Coast Guard National Intelligence Element (comprised of *Coast Guard national intelligence components* and *Coast Guard national intelligence personnel*) and *Coast Guard national intelligence records*.

2. Coast Guard national intelligence personnel detailed to another *Intelligence Community* (IC) organization shall comply with the Executive Order 12333 implementing procedures of that organization rather than this Manual.

3. Coast Guard units, staffs and personnel that are not part of the Coast Guard National Intelligence Element shall comply with other applicable directives governing the collection, storage, and release of information.

4. Procedures 2 through 4 provide the sole means by which Coast Guard national intelligence components may *collect*, *retain* and *disseminate* information concerning *United States persons* (USPer). Procedures 5 through 10 set forth specific policy with respect to the use of certain collection techniques to obtain information for intelligence purposes. Procedures 11 through 15 govern other aspects of Coast Guard intelligence activities, including the oversight of such activities.

5. The functions of Coast Guard national intelligence components not specifically addressed herein (e.g., administrative, budgetary, military justice) shall be carried out in accordance with applicable Coast Guard directives.

6. These procedures do not apply to authorized law enforcement or regulatory activities that may be undertaken by the Coast Guard, including the collection of law enforcement intelligence concerning the domestic activities of USPer pursuant to Coast Guard law enforcement or regulatory authorities.

7. When an intelligence activity undertaken pursuant to these procedures establishes *reasonable belief* that a crime has been committed, or is about to be committed, the Coast Guard national intelligence component concerned shall refer the matter to appropriate law enforcement elements of the Coast Guard or the appropriate law enforcement agency in accordance with procedures 12 and 15.

8. National Foreign Intelligence Program funding shall not be used for purposes other than those authorized by the National Security Act of 1947, Executive Order 12333, and IC policy.

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9. All intelligence activities shall be conducted in accordance with applicable IC policies governing the protection of intelligence sources and methods, including but not limited to Director of Central Intelligence Directive (DCID) 6/6.

10. Coast Guard national intelligence components shall not request any person or entity, including law enforcement elements of the Coast Guard, to undertake any activity forbidden by Executive Order 12333, other applicable law, or these procedures.

B. Purpose.

1. The purpose of these procedures is to enable Coast Guard national intelligence components to effectively carry out their authorized functions while ensuring their activities that affect USPer are carried out in a manner that protects the Constitutional rights and privacy of such persons.

2. This Manual is intended to complement other IC policy; it does not establish independent authority for intelligence activities. Independent authority for the conduct of intelligence activities derives from statutes, Executive Orders, Director of Central Intelligence Directives (DCID), and other IC policy. Therefore, in determining whether a Coast Guard national intelligence component may conduct an intelligence activity, the component should first determine whether it has the authority to conduct the activity based on law and IC policy. Once the component has determined it possesses the authority to conduct the activity involved, this Manual shall be used to determine whether particular items of information about USPer may be collected, retained, or disseminated during the intelligence activity and the means by which the intelligence activity may be carried out.

C. Interpretation. These procedures shall be interpreted in accordance with their stated purpose. All questions of interpretation shall be referred to the servicing legal office responsible for advising the Coast Guard national intelligence component concerned. Questions that cannot be resolved in this manner shall be referred to the Chief Counsel for resolution via the chain of command. On all questions of interpretation regarding exercise of other agency authority under Procedure 5, the Chief Counsel shall consult with the Office of General Counsel of that agency.

D. Identification of National Intelligence Records for Oversight Purposes. All national intelligence records shall be identified and/or marked as such as determined by the Assistant Commandant for Intelligence in a sufficient manner to clearly distinguish them from law enforcement intelligence or non-intelligence information for the purposes of determining applicability of this Manual. Additionally, all national intelligence records containing information identifying USPer by name or other identifying data shall be clearly identified and/or marked as determined by the Assistant Commandant for Intelligence to ensure compliance with this Manual. Establishment of unofficial files to avoid application of the provisions of this Manual is prohibited.

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E. Exceptions to policy. Requests for exception to policies and procedures established herein shall be made in writing via the chain of command to the Assistant Commandant for Intelligence, who shall obtain the written concurrence of the Chief Counsel and, if required, the Attorney General for any such exceptions.

F. Changes. Requests for changes to these procedures shall be made via the chain of command to the Assistant Commandant for Intelligence, who shall obtain the written concurrence of the Chief Counsel and, if required, the Attorney General for any such changes.

G. General Prohibitions. Coast Guard national intelligence components shall not conduct or provide support for the conduct of *special activities*, unless such actions have been directed by the President. Any Coast Guard participation in special activities directed by the President shall be consistent with Executive Order 12333 and other applicable directives.

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PROCEDURE 2

COLLECTION OF INFORMATION

A. Applicability. This Procedure specifies principles for collection of information, identifies information about USPer that may be collected by Coast Guard national intelligence components, and sets forth criteria governing the means used to collect information about USPer. Additional limitations are imposed in Procedures 5 through 10 on the use of specific collection techniques.

B. Guiding Principles. Coast Guard national intelligence components are authorized to collect information by any lawful means, provided that all such collection activities shall be carried out in accordance with Executive Order 12333 and this Manual. Collection of information shall meet the following criteria:

1. Be consistent with the Coast Guard National Intelligence Element mission;

2. Be based on a function assigned to that Coast Guard national intelligence component;

3. Employ the least intrusive means/techniques reasonably available pursuant to Procedure 2.C; and

4. Comply with Procedures 2.D-E and other provisions of this Manual.

C. Least Intrusive Means of Collection Regarding United States Persons. The collection of information about USPer shall be accomplished by the least intrusive means. The following rules apply:

1. To the extent feasible, such information shall be collected from publicly available information or with the consent of the person concerned;

2. If collection from these sources is not feasible or sufficient, such information may be collected from *cooperating sources*;

3. If collection from cooperating sources is not feasible or sufficient, such information may be collected, as appropriate, using other lawful investigative techniques that do not require a judicial warrant or the approval of the Attorney General;

4. If collection through use of these techniques is not feasible or sufficient, approval for use of investigative techniques that do require a judicial warrant or the approval of the Attorney General may be sought in accordance with these procedures.

D. Types of Information That May Be Collected About United States Persons. Information that identifies a USPer may be collected by Coast Guard national intelligence components only if

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it meets the criteria in Procedure 2.B and only if it falls within one of the following categories:

1. Information obtained with consent. Information may be collected about a USPer who *consents* to such collection.

2. Publicly available information. Information may be collected about a USPer if it is *publicly available*.

3. Foreign intelligence. Subject to the special limitation contained in Procedure 2.E, information may be collected about a USPer if the information constitutes *foreign intelligence*, provided the intentional collection of foreign intelligence about USPer shall be limited to:

   a. Individuals reasonably believed to be officers or employees, or otherwise acting for or on behalf, of a *foreign power*;

   b. An organization reasonably believed to be owned or controlled, directly or indirectly, by a foreign power;

   c. Persons or organizations reasonably believed to be engaged, or about to engage, in *international terrorist activities* or *international narcotics activities*;

   d. Persons who are reasonably believed to be prisoners of war, missing in action, or are the targets, hostages, or victims of international terrorist organizations; or

   e. Corporations or other commercial organizations believed to have some relationship with foreign powers, organizations, or persons.

4. Counterintelligence. Information may be collected about a USPer if the information constitutes *counterintelligence*, provided the intentional collection of counterintelligence about USPer must be limited to:

   a. Persons who are reasonably believed to be engaged in, or about to engage in, intelligence activities on behalf of a foreign power, or international terrorist activities; or

   b. Persons in contact with persons described in Procedure 2.B.4.a for the purpose of identifying such person and assessing their relationship with such persons.

5. Potential Sources of Assistance to Intelligence Activities. Information may be collected about USPer reasonably believed to be potential sources of foreign intelligence or counterintelligence, or potential sources of assistance to intelligence activities, for the purpose of assessing their suitability or credibility. This category does not include investigations undertaken for personnel security purposes.

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6. Protection of Intelligence Sources and Methods. Information may be collected about a USPer who has access to, had access to, or is otherwise in possession of, information which reveals foreign intelligence and counterintelligence sources or methods, when collection is reasonably believed necessary to protect against the unauthorized disclosure of such information.

7. Physical Security. Information may be collected about a USPer who is reasonably believed to threaten the physical security of Coast Guard employees, installations, operations, or official visitors. Information may also be collected in the course of a lawful *physical security investigation.*

8. Personnel Security. Information may be collected about a USPer that arises out of a lawful *personnel security investigation.*

9. Communications Security. Information may be collected about a USPer that arises out of a lawful *communications security investigation.*

10. International Narcotics Activities. Information may be collected about a USPer who is reasonably believed to be engaged in *international narcotics activities.*

11. Threats to Safety. Information may be collected about a USPer when the information is needed to protect the safety of any person or organization, including those who are targets, victims, or hostages of international terrorist organizations.

12. Overhead Reconnaissance. Information may be collected from overhead reconnaissance not directed at specific USPer.

13. Information related to violation of law obtained incidental to authorized collection. Information obtained *incidental to authorized collection* that may indicate involvement in activities that violate federal, state, local, or foreign laws.

14. Administrative Purposes. Information may be collected about a USPer that is necessary for *administrative purposes.*

E. Limitation on the Means of Collection Within the United States.

   1. Information concerning USPer may be collected *within the United States* by *overt* means.

   2. Information concerning USPer may by collected within the United States by *clandestine* means only if the following conditions are met:

      a. The collection is not undertaken for the purpose of acquiring information concerning the domestic activities of any USPer;

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b. Such information cannot be reasonably obtained by overt means;

c. The collection of such information has been coordinated with the Federal Bureau of Investigation (FBI); and

d. The use of clandestine means has been approved in writing by the Assistant Commandant for Intelligence as being consistent with these procedures. A copy of any approval made pursuant to this section shall be provided to the Chief Counsel.

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PROCEDURE 3

RETENTION OF INFORMATION ABOUT UNITED STATES PERSONS

A. Applicability. This procedure governs the kinds of information about USPer that may knowingly be retained by a Coast Guard national intelligence component without the consent of the person whom the information concerns. It does not apply when the information in question is retained solely for administrative purposes or is required by law to be maintained. This Procedure does not relieve Coast Guard national intelligence components from compliance with the Privacy Act or Freedom of Information Act in accordance with the Freedom of Information and Privacy Acts Manual, COMDTINST M5260.3 (series).

B. Criteria for Retention. Information about USPer is authorized for retention only in the following circumstances:

1. Retention of Information Intentionally Collected Under Procedure 2. Information about USPer may be retained if it was intentionally collected pursuant to Procedure 2.

2. Retention of Information Acquired Incidental to Authorized Collection. Information acquired incidental to authorized collection may only be retained if:

   a. Such information could have been collected intentionally under procedure 2; or

   b. Such information indicates involvement in activities that may violate federal, state, local, or foreign law. Information that indicates involvement in activities that may violate federal, state, local, or foreign law shall only be retained as necessary to expeditiously transmit or deliver such information to the appropriate recipients (e.g., law enforcement intelligence or non-intelligence components of the Coast Guard and the Federal Bureau of Investigation).

3. Temporary Retention. Information about USPer may be retained temporarily, for a period not to exceed 90 days, solely for the purpose of determining whether that information may be permanently retained under these procedures.

4. Retention of Other Information. Information about USPer other than that specifically authorized in Procedure 2 shall be retained only for purposes of reporting such collection for oversight purposes and for any subsequent proceedings that may be necessary.

C. Access and Retention.

1. Controls on Access to Retained Information. Access within a Coast Guard national intelligence component to information about the USPer retained pursuant to this procedure shall be limited to those with a need for such information in the course of their official duties.

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2. Review of intelligence records. Supervisors of Coast Guard national intelligence components shall conduct quarterly reviews of national intelligence records to ensure the following:

   a. That continued retention of the information serves the purpose for which the information was collected and stored; and

   b. That retention of the information is necessary to conduct the authorized functions of the Coast Guard national intelligence component.

3. Information Acquired Prior to Effective Date. Information acquired prior to the effective date of this procedure may be retained by Coast Guard national intelligence components if authorized under this Manual. Information that is no longer authorized for retention by Coast Guard national intelligence components shall be transferred to law enforcement intelligence or non-intelligence components of the Coast Guard.

D. Control of Electronic Surveillance Information. For specific requirements concerning control and indexing of electronic surveillance information, see Procedure 5.

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PROCEDURE 4

DISSEMINATION OF INFORMATION ABOUT UNITED STATES PERSONS

A. Applicability. This procedure governs the kinds of information about USPer that may be disseminated, without their consent, outside the Coast Guard national intelligence component that collected and retained the information. It does not apply to information collected solely for administrative purposes, disseminated pursuant to other law, or disseminated pursuant to a court order that otherwise imposes controls upon such dissemination.

B. Criteria for Dissemination. Except as provided in Procedure 4.C, information about USPer that identifies those persons may be disseminated without the consent of those persons only under the following conditions:

1. The information was collected or retained, or both, under Procedures 2 and 3; and

2. The recipient is reasonably believed to have a need to receive such information for the performance of a lawful governmental function, and is one of the following:

   a. An employee of a law enforcement intelligence or non-intelligence component of the Coast Guard or the Department and that person has a need for such information in the course of his official duties;

   b. A law enforcement entity of federal, state, or local government and the information may indicate involvement in activities which may violate laws which the recipient is responsible to enforce;

   c. An agency within the IC; provided that information, other than information derived from signals intelligence, may be disseminated within the IC to each appropriate agency for the purpose of allowing the recipient agency to determine whether the information is relevant to its responsibilities without such a determination being required of the disseminating Coast Guard national intelligence component;

   d. An agency of the federal government authorized to receive such information in the performance of a lawful governmental function; or

   e. A foreign government, and dissemination is undertaken pursuant to an agreement or other understanding with such government in accordance with applicable foreign disclosure policies and procedures.

C. Other Dissemination. Any dissemination that does not conform to the conditions set forth in Procedure 4.B must be approved by the Assistant Commandant for Intelligence after consultation with the Chief Counsel and the Department of Justice. Such approval shall be based on a determination that the proposed dissemination complies with applicable laws, Executive Orders, regulations, and other policy.

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PROCEDURE 5

ELECTRONIC SURVEILLANCE FOR INTELLIGENCE PURPOSES

A. Non-consensual Electronic Surveillance Within the United States for Intelligence Purposes.

1. Applicability.

   a. Procedure 5.A implements the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. §1801, *et seq.*, and applies to "electronic surveillance," as defined in the FISA, conducted by Coast Guard national intelligence components within the "United States" to collect "foreign intelligence information," as defined in the FISA.

   b. Procedure 5.A applies to all non-consensual "electronic surveillance," as defined in the FISA, conducted within the United States, whether or not directed against USPer, by Coast Guard national intelligence components.

   c. Procedure 5.A does not govern circumstances in which the Federal Bureau of Investigation, National Security Agency, or other authorized agency of the Federal government conduct authorized electronic surveillance under the FISA in response to a Coast Guard request for intelligence support. Only the Assistant Commandant for Intelligence is authorized to submit such requests for intelligence support to the Federal Bureau of Investigation or the National Security Agency.

   d. Procedure 5.A does not apply to authorized electronic surveillance conducted for the primary purpose of law enforcement by law enforcement intelligence or non-intelligence components of the Coast Guard in accordance with applicable law (i.e., Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Electronic Communications Privacy Act of 1986, 18 U.S.C. 2510, *et seq.*).

2. Procedures.

   a. Coast Guard national intelligence components shall not conduct non-consensual electronic surveillance within the United States for intelligence purposes unless pursuant to an Order issued by a judge of the court appointed pursuant to the FISA or pursuant to a certification of the Attorney General issued under the authority of section 102(a) of the FISA.

   b. Requests by supervisors of Coast Guard national intelligence components for authority to conduct non-consensual electronic surveillance pursuant to the FISA shall be submitted by secure, expeditious means via the servicing legal office to the Assistant Commandant for Intelligence in manner prescribed by the Assistant Commandant for Intelligence.

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B. Non-consensual Electronic Surveillance Outside the United States Against United States Persons for Intelligence Purposes.

1. Applicability.

a. Procedure 5.B applies to non-consensual electronic surveillance, as defined in Enclosure (1), conducted by Coast Guard national intelligence components for intelligence purposes directed against a "United States person," as defined in the FISA, who is *outside the United States*.

(1) Electronic surveillance is "directed against a USPer" when the surveillance is intentionally targeted against or designed to intercept the communications of or concerning that person.

(2) Electronic surveillance directed at non-USPer that results in the "inadvertent acquisition of USPer communications" incidental to authorized collection does not automatically become directed against a USPer.

(3) Electronic surveillance is directed against a USPer who is "outside the United States" if the person against whom the electronic communication is directed is not physically within the United States, regardless of the location at which the surveillance is conducted. For example, if the interception of communications that originate and terminate outside the United States is conducted from within the United States, the provisions of 5.B rather than 5.A apply.

b. Procedure 5.B also governs the non-consensual use of mechanical or other surveillance devices for intelligence purposes by Coast Guard national intelligence components directed at a USPer outside the United States in circumstances where such person has a reasonable expectation of privacy.

2. Procedures.

a. Coast Guard national intelligence components shall not conduct non-consensual electronic surveillance outside the United States directed against a USPer for intelligence purposes unless pursuant to an approval issued by the Attorney General.

b. Requests by supervisors of Coast Guard national intelligence components for authority to conduct electronic surveillance under Procedure 5.B shall be submitted by secure, expeditious means via the servicing legal office to the Assistant Commandant for Intelligence in manner prescribed by the Assistant Commandant for Intelligence.

3. Emergency Situations.

a. The Assistant Commandant for Intelligence is authorized to approve non-consensual electronic surveillance outside the United States directed against a USPer if:

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(1) On the basis of facts and circumstances the Assistant Commandant for Intelligence determines there is probable cause to believe that the target of the surveillance is a foreign power or agent of a foreign power; and

(2) Securing approval from the Attorney General is not practical because:

(i) The time required would cause failure or delay in obtaining significant foreign intelligence or counterintelligence and such failure or delay would result in substantial harm to national security; or

(ii) A person's life or physical safety is reasonably believed to be in immediate danger.

b. The Assistant Commandant for Intelligence shall immediately notify the Chief Counsel and the Attorney General as soon as possible of the surveillance, the circumstances surrounding its authorization, the results thereof, and any such other information as may be required to authorize continuation of such surveillance.

c. Electronic surveillance authorized pursuant to Procedure 5.B.3 may not continue beyond the time required for a decision by the Attorney General, and in no event beyond 72 hours.

C. Information Assurance Activities.

1. Applicability. Procedure 5.C applies to the conduct of information assurance activities (e.g., technical surveillance countermeasures, vulnerability surveys, hearability surveys).

2. Procedures. Coast Guard national intelligence components conducting information assurance activities shall comply with policies and procedures promulgated in directives issued by the Director, National Security Agency/Chief, Central Security Service, with the approval of the Attorney General.

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PROCEDURE 6

CONCEALED MONITORING

A. Applicability.

1. Procedure 6 applies to concealed monitoring for intelligence purposes conducted by a Coast Guard national intelligence component within the United States or directed against a USPer who is outside the United States, where the subject of such monitoring does not have a reasonable expectation of privacy or no warrant would be required if undertaken for law enforcement purposes.

2. "Concealed monitoring" means the targeting by electronic, optical, or mechanical devices of a particular person or a group of persons without their consent in a clandestine manner.

3. Monitoring is "within the United States" if the monitoring device or the target of the monitoring is located within the United States.

4. Whether the subject has a reasonable expectation of privacy is a determination that depends upon the circumstances of a particular case, and shall be made only after consultation with the servicing legal office responsible for advising the Coast Guard national intelligence component concerned.

5. Concealed monitoring within the United States for intelligence purposes where the subject of such monitoring has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes shall be treated as electronic surveillance within the United States under Procedure 5.A and conducted in accordance with that procedure.

6. Concealed monitoring for intelligence purposes of a USPer outside the United States where the subject of such monitoring has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes shall be treated as electronic surveillance outside the United States under Procedure 5.B and conducted in accordance with that procedure.

7. Procedure 6 does not apply to signals intelligence activities covered by Procedure 5.D.

B. Procedures.

1. Coast Guard national intelligence components shall not conduct concealed monitoring under Procedure 6 unless approved by the Assistant Commandant for Intelligence, with concurrence of the Chief Counsel.

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2. Within the United States, the Assistant Commandant for Intelligence may authorize Coast Guard national intelligence components to conduct concealed monitoring under Procedure 6 only on an installation or facility owned or leased by the Coast Guard, or elsewhere in the course of a counterintelligence investigation conducted in coordination with the Federal Bureau of Investigation.

3. Outside the United States, the Assistant Commandant for Intelligence may authorize Coast Guard national intelligence components to conduct concealed monitoring under Procedure 6 in coordination with the Central Intelligence Agency.

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PROCEDURE 7

PHYSICAL SEARCHES

A. Non-consensual Physical Searches Within the United States for Intelligence Purposes.

1. Applicability.

a. Procedure 7.A implements the Foreign Intelligence Surveillance Act (FISA) and applies to "physical searches," as defined in the FISA, conducted by Coast Guard national intelligence components within the "United States" to collect "foreign intelligence information," as defined in the FISA.

b. Procedure 7.A applies to all non-consensual "physical searches," as defined in the FISA, conducted by Coast Guard national intelligence components within the United States, whether or not directed against USPer. Policy and procedures governing consensual physical searches are found in Procedure 7.C.

c. Procedure 7.A does not apply to lawful searches conducted for the primary purpose of law enforcement by law enforcement intelligence or non-intelligence components of the Coast Guard. Procedure 7 does not limit the authority of the supervisor, unit commander, or military judge to authorize a search under the provisions of the Uniform Code of Military Justice.

2. Procedures.

a. Coast Guard national intelligence components shall not conduct physical searches within the United States for intelligence purposes unless pursuant to an Order issued by a judge of the court appointed pursuant to the FISA or pursuant to a certification of the Attorney General issued under the authority of section 123(d) of the FISA.

b. The Assistant Commandant for Intelligence, in consultation with the Chief Counsel, is authorized to submit requests to conduct physical searches in accordance with certification and application procedures established by the Attorney General under the FISA.

c. Requests by supervisors of Coast Guard national intelligence components for authority to conduct physical searches pursuant to the FISA shall be submitted by secure, expeditious means via the servicing legal office to the Assistant Commandant for Intelligence in manner prescribed by the Assistant Commandant for Intelligence.

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B. Non-consensual Physical Searches Outside the United States Against United States Persons for Intelligence Purposes.

1. Applicability. As used in Procedure 7.B, "physical search" means any intrusion upon a person or a person's property or possessions to obtain items of property or information where that person has a reasonable expectation of privacy. The term does not include any intrusion authorized as necessary to accomplish lawful electronic surveillance pursuant to Procedure 5.

2. Procedures.

a. Coast Guard national intelligence components shall not conduct non-consensual physical searches outside the United States against a USPer for intelligence purposes unless pursuant to an approval issued by the Attorney General.

b. The Assistant Commandant for Intelligence, with concurrence of the Chief Counsel, is authorized to submit requests for approval to the Attorney General in accordance with procedures established by the Attorney General.

c. Requests by supervisors of Coast Guard national intelligence components for authority to conduct physical searches under Procedure 7.B shall be submitted by secure, expeditious means via the servicing legal office to the Assistant Commandant for Intelligence in manner prescribed by the Assistant Commandant for Intelligence.

C. Non-consensual Physical Searches Outside the United States Against Non-United States Persons for Intelligence Purposes.

1. Applicability. Procedure 7.C applies to the non-consensual physical searches conducted by Coast Guard national intelligence components outside the United States directed at non-USPer for intelligence purposes.

2. Procedures.

a. Coast Guard national intelligence components shall not conduct non-consensual physical searches outside the United States directed at a non-USPer for intelligence purposes unless approved by the Assistant Commandant for Intelligence.

b. The Assistant Commandant for Intelligence, with concurrence of the Chief Counsel, is authorized to approve non-consensual physical searches outside the United States directed at non-USPer for collection of information authorized in accordance with this Manual for a period of up to 90 days.

c. Requests by supervisors of Coast Guard national intelligence components for authority to conduct physical searches under Procedure 7.C shall be submitted by

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secure, expeditious means via the servicing legal office to the Assistant Commandant for Intelligence in manner prescribed by the Assistant Commandant for Intelligence.

D. Consensual Physical Searches Within or Outside the United States for Intelligence Purposes.

1. Applicability. Procedure 7.D governs consensual physical searches conducted by Coast Guard national intelligence components for intelligence purposes, whether directed against USPer or non-USPer and whether occurring within or outside the United States.

2. Procedures. Coast Guard national intelligence components are authorized to conduct consensual physical searches for intelligence purposes, whether directed against USPer or non-USPer, provided the following conditions are met:

   a. The Coast Guard national intelligence personnel are identifiable to the target of the search as Coast Guard personnel; and

   b. The subject of the search understands that a physical search is being conducted and voluntarily consents to the search.

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PROCEDURE 8

SEARCHES AND EXAMINATION OF MAIL FOR INTELLIGENCE PURPOSES

A. Applicability.

1. Procedure 8 applies to the opening of mail in United States postal channels, and the use of mail covers with respect to such mail, for intelligence purposes. It also applies to the opening of mail to or from USPer where such activity is conducted outside the United States and such mail is not in United States postal channels.

2. "Mail in United States postal channels" includes:

   a. Mail while in transit within, among, and between the United States, its territories and possessions (including mail of foreign origin which is passed by a foreign postal administration to the United States Postal Service for forwarding to a foreign postal administration under a postal treaty or convention, and mail temporarily in the hands of the Bureau of Customs and Border Protection or the Department of Agriculture), Army-Air Force (APO) and Navy (FPO) post offices, and mail for delivery to the United Nations, N.Y.; and

   b. International mail en route to an addressee in the United States or its possessions after passage to United States Postal Service from a foreign postal administration or en route to an addressee outside the United States before passage to a foreign postal administration.

   c. Mail shall be considered in such postal channels until the moment it is delivered manually in the United States to the specific addressee named on the envelope/label, or the addressee's authorized agent.

3. To "examine mail" means to employ a mail cover with respect to such mail.

4. "Mail cover" means the process by which a record is made of any data appearing on the outside cover of any class of mail matter as permitted by law, other than that necessary for the delivery of mail or administration of the United States Postal Service.

B. Procedures.

1. Searches of mail.

   a. Coast Guard national intelligence components shall not detain or open mail within United States postal channels for intelligence purposes, or request such action by the United States Postal Service.

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b. Coast Guard national intelligence components shall not open mail to or from a USPer that is found outside United States postal channels unless pursuant to an approval issued by the Attorney General. Requests for such approval shall be treated as a request for a non-consensual physical search under Procedure 7.

c. Coast Guard national intelligence components shall not open mail outside United States postal channels when both the sender and intended recipient are non-USPer, unless the mail search is approved by the Assistant Commandant for Intelligence, with concurrence of the Chief Counsel. The Assistant Commandant for Intelligence is authorized to approve such requests if the mail search is otherwise lawful and consistent with any Status of Forces Agreement that may be in effect.

2. Mail Covers.

a. Coast Guard national intelligence components shall not examine mail, or request postal authorities to examine mail, in United States postal channels, unless approved by the Assistant Commandant for Intelligence. The Assistant Commandant for Intelligence is authorized, in accordance with 39 C.F.R. § 233.3, to request that the Chief Postal Inspector examine mail to "protect national security," as that term is defined in 39 C.F.R. 233.3.

b. Coast Guard national intelligence components shall not examine mail to or from a USPer that is outside United States postal channels, unless approved by the Assistant Commandant for Intelligence. The Assistant Commandant for Intelligence, with concurrence of the Chief Counsel, is authorized to examine mail to or from a USPer that is outside United States postal channels in accordance with appropriate law and procedure of the host government.

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PROCEDURE 9

PHYSICAL SURVEILLANCE

A. Applicability.

1. Procedure 9 applies to non-consensual physical surveillance for intelligence purposes conducted by a Coast Guard national intelligence component within the United States or directed against a USPer who is outside the United States.

2. "Physical surveillance" means a systematic and deliberate visual observation of a person by Coast Guard national intelligence personnel on a continuing basis, or the acquisition of a non-public communication by a person not a party thereto or visibly present through any means not involving electronic surveillance. Systematic means the activity is done methodically or with regularity. Deliberate means the activity is done intentionally or with advanced planning. A person means a natural person and the observation that is contemplated involves finite objects, not abstractions such as associations or corporations.

B. Procedures.

1. Coast Guard national intelligence components shall not conduct physical surveillance unless approved by the Assistant Commandant for Intelligence, with concurrence of the Chief Counsel.

2. Within the United States, the Assistant Commandant for Intelligence may authorize Coast Guard national intelligence components to conduct physical surveillance on an installation or facility owned or leased by the Coast Guard, or elsewhere in coordination with the Federal Bureau of Investigation.

3. Outside the United States, the Assistant Commandant for Intelligence may authorize Coast Guard national intelligence components to conduct physical surveillance in coordination with the Central Intelligence Agency.

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PROCEDURE 10

UNDISCLOSED PARTICIPATION IN ORGANIZATIONS

A. Applicability.

1. Procedure 10 applies to participation by Coast Guard national intelligence personnel in any organization within the United States, or any organization outside the United States that constitutes a USPer, when such participation is for an official purpose. These procedures do not apply to participation in organizations solely for personal purposes.

2. "Organizations" means corporations and other commercial organizations, academic institutions, clubs, professional societies, associations, and any other group whose existence is formalized in some manner or otherwise functions on a continuing basis.

3. An "organization within the United States" means all organizations physically located within the geographic boundaries of the United States, whether or not they constitute a United States person. Therefore, a branch, subsidiary, or office of an organization within the United States, which is physically located outside of the United States, is not considered an organization within the United States.

4. "Participation" refers to an action taken within the structure or framework of the organization involved. Such actions include serving as a representative or agent of the organization, acquiring membership, attending meetings not open to the public, including social functions for the organization as a whole, carrying out the work or functions of the organization, and contributing funds to the organization other than in payment for goods or services.

5. Participation is "for an official purpose" when Coast Guard national intelligence personnel are directed, asked, or requested to take action within an organization related to any official governmental function, whether or not that person is already a member of the organization or asked to join. Actions taken for an official purpose include collecting information, identifying potential sources or contacts, or establishing and maintaining cover. If a cooperating source provides information to a Coast Guard national intelligence component which that source obtained by participation within an organization, but was not given prior direction or tasking by the intelligence component to collect such information, then such provision of information is not subject to this procedure.

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B. Procedures.

1. Except as provided in Procedure 10.B.2-3, Coast Guard national intelligence personnel shall not participate for official purposes in organizations within the United States, or in organizations outside the United States that constitute United States persons, without disclosing their intelligence affiliation in accordance with Procedure 10.C.

2. Coast Guard national intelligence personnel are authorized to participate for official purposes in organizations within the United States, or in organizations outside the United States that constitute United States persons, without disclosing their intelligence affiliation, only after the Assistant Commandant for Intelligence, with concurrence of the Chief Counsel, has approved the participation after determining that:

   a. The undisclosed participation is essential to achieving the lawful collection of foreign intelligence or counterintelligence; and

   b. The undisclosed participation:

      (1) Is not for the purpose of influencing the activities of the organization in question for intelligence purposes; or

      (2) Has been coordinated with, reviewed, and approved by the Director of the Federal Bureau of Investigation.

3. Coast Guard national intelligence personnel are authorized to participate for official purposes in organizations within the United States, or in organizations outside the United States that constitute United States persons, without disclosing their intelligence affiliation, only after the Supervisor of the Coast Guard national intelligence component concerned, in consultation with the servicing legal office, has approved the participation after determining that:

   a. The undisclosed participation is not for the purpose of collecting foreign intelligence or counterintelligence;

   b. The undisclosed participation is not for the purpose of influencing the activities of the organization in question for intelligence purposes; and

   c. The undisclosed participation falls within one of the following situations:

      (1) Participation in meetings open to the public. A seminar or conference sponsored by a professional organization that is open to persons of a particular profession, whether or not they are members of the organization itself shall be considered open to the public;

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(2) Participation in an organization that permits other persons acknowledged to the organization to be employees of the United States Government to participate;

(3) Participation in educational professional organizations for the purpose of enhancing professional skills, knowledge, or capabilities of employees; or

(4) Participation in seminars, forums, conferences, exhibitions, trade fairs, workshops, symposiums, and similar types of meetings sponsored by organizations in which Coast Guard national intelligence personnel are members and have been invited to participate.

C. Disclosure of Intelligence Affiliation. Disclosure of intelligence affiliation of a Coast Guard national intelligence employee shall be made to an executive officer (e.g., board member, office holder) of the organization in question, or to an official in charge of membership, attendance, or the records of the organization concerned. Disclosure may be made by the Coast Guard national intelligence personnel involved, the supervisor of the Coast Guard national intelligence component concerned, or by another component of the IC authorized to take such action on behalf of the Coast Guard National Intelligence Element.

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PROCEDURE 11

CONTRACTING FOR GOODS AND SERVICES

A. Applicability.

1. Procedure 11 applies to contracting and other arrangements with USPer for the procurement of goods and services by Coast Guard national intelligence components within the United States and with contractors not within the United States who are USPer. Procedure 11 does not apply to contracting with government entities or to the enrollment of Coast Guard national intelligence personnel in academic institutions (covered by Procedure 10).

2. For the purpose of this procedure, Coast Guard national intelligence components enter into contracts "for the procurement of goods and services" when the contract is entered into on behalf of the component. The Law Enforcement Intelligence Program shall not be used to enter into contracts on behalf of the National Intelligence Element in order to circumvent this procedure.

B. Procedures.

1. Coast Guard national intelligence components shall not enter into contracts for the procurement goods or services with an academic institution unless prior to the making of the contract, the Coast Guard has disclosed to appropriate officials of the academic institution the fact of sponsorship or involvement by a Coast Guard national intelligence component.

2. Coast Guard national intelligence components are authorized to enter into contracts for the procurement of goods and services with commercial organizations, private institutions, or private individuals within the United States without revealing sponsorship or involvement of the intelligence component if:

   a. The contract is for published material available to the general public or for routine goods or services necessary for the support of approved activities, such as credit cards, car rentals, travel, lodging, meals, rental of office space, and other items incidental to approved activities; or

   b. There is a written determination by the Assistant Commandant for Intelligence, with concurrence of the Chief Counsel, that the sponsorship or involvement of the Coast Guard national intelligence component must be concealed to protect the activities of the Coast Guard national intelligence component concerned.

C. Effect of Non-Compliance. No contract shall be void or voidable for failure to comply with this procedure.

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PROCEDURE 12

PROVISION OF ASSISTANCE TO LAW ENFORCEMENT

A. Applicability. Procedure 12 applies to provision of assistance by Coast Guard national intelligence components to law enforcement authorities, including law enforcement intelligence and non-intelligence components of the Coast Guard with authority to enforce laws and regulations.

B. Procedures. Coast Guard national intelligence components are authorized to cooperate with law enforcement authorities for the purpose of:

1. Investigating or preventing:

a. Clandestine intelligence activities by foreign powers;

b. International narcotics activities;

c. International terrorist activities;

d. *International maritime alien migration*;

e. *International fisheries threats*; and

f. *International environmental threats*.

2. Protecting Coast Guard personnel, information, property and facilities; and

3. Preventing, detecting or investigating other violations of law.

C. Types of Permissible Assistance. Coast Guard national intelligence components may provide the following types of assistance to law enforcement authorities:

1. Information.

a. Coast Guard national intelligence components are authorized to disseminate intelligence to law enforcement authorities in accordance with Procedure 4 and applicable policy governing the protection of intelligence sources and methods.

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b. Information acquired incidental to authorized collection reasonably believed to indicate a violation of federal, state, local, or foreign law shall be provided to law enforcement intelligence or non-intelligence components of the Coast Guard or other federal, state, local, or foreign government organizations with responsibility for enforcing those laws or regulations.

2. Equipment. Specialized equipment and/or facilities operated by Coast Guard national intelligence components or designed, purchased, or obtained for intelligence activities shall not be provided or loaned to law enforcement intelligence or non-intelligence components of the Coast Guard or other law enforcement authorities without the approval of the Assistant Commandant for Intelligence, with concurrence of the Chief Counsel. Specialized equipment and/or facilities under the cognizance of the United States Signals Intelligence System shall not be provided or loaned to law enforcement intelligence or non-intelligence components of the Coast Guard or other law enforcement authorities without the approval of the Director, National Security Agency/Chief, Central Security Service.

3. Conduct of Law Enforcement Activities. Coast Guard national intelligence personnel shall not directly conduct law enforcement activities (i.e., boarding, search, seizure, arrest) without the approval of the Assistant Commandant for Intelligence. Procedure 12 shall not prevent supervisors of Coast Guard national intelligence components or Coast Guard national intelligence personnel from carrying out authorized functions pursuant to the Uniform Code of Military Justice, Manual for Courts-martial, and Military Justice Manual, COMDTINST M5810.1 (series) with respect to the internal administration of their component.

4. National Intelligence Element Support to Federal Bureau of Investigation Foreign Counterintelligence Activities. Coast Guard national intelligence components providing support and assistance to foreign counterintelligence investigations and activities conducted by the national security elements of the Federal Bureau of Investigation are not considered "assistance to law enforcement" under Procedure 12.

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PROCEDURE 13

EXPERIMENTATION ON HUMAN SUBJECTS FOR INTELLIGENCE PURPOSES

A. Applicability. Procedure 13 applies to experimentation on human subjects if such experimentation is conducted by or on behalf of a Coast Guard national intelligence component.

1. "Experimentation" means any research or testing activity involving human subjects that may expose such subjects to the possibility of temporary or permanent injury (including physical or psychological injury) beyond the risk of injury to which persons are ordinarily exposed.

2. Experimentation is "conducted by or on behalf of a Coast Guard national intelligence component" if it is conducted under contract to that component or for the benefit of that component, regardless of any contractual relationship.

3. "Human subjects" includes any person, regardless of whether a USPer.

B. Procedures. Experimentation on human subjects for intelligence purposes is prohibited.

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PROCEDURE 14

EMPLOYEE CONDUCT

A. Applicability. Procedure 14 sets forth the responsibilities of the Assistant Commandant for Intelligence, supervisors of Coast Guard national intelligence components, and Coast Guard national intelligence personnel to conduct themselves in accordance with Executive Order 12333, and the provisions of this Manual.

B. Procedures.

1. Coast Guard national intelligence personnel shall conduct intelligence activities only in accordance with Executive Order 12333, and the provisions of this Manual.

2. The Assistant Commandant for Intelligence and supervisors of Coast Guard national intelligence components shall ensure that Coast Guard national intelligence personnel are thoroughly familiar with Executive Order 12333, and the provisions of this Manual, and regularly trained and exercised in the application of those rules to the conduct of intelligence activities. Particular emphasis shall be placed on Procedures 1-4, 12, 14 and 15.

3. The Assistant Commandant for Intelligence, supervisors of Coast Guard national intelligence components, and Coast Guard national intelligence personnel shall:

   a. Ensure that all proposals for intelligence activities and intelligence activities that may be unlawful are reported in accordance with Procedure 15;

   b. Ensure that no adverse action is taken against any person because that person reports activities pursuant to Procedure 15;

   c. Impose appropriate corrective and disciplinary action on Coast Guard national intelligence personnel who violate the provision of this Manual or other directives governing the conduct of intelligence activities; and

   d. Ensure that the Chief Counsel, personnel designated to conduct oversight inspections, the Inspector General and General Counsel of the Department, and Intelligence Oversight Board have access to any information necessary to perform their duties assigned by statute, Executive Order, or the provisions of this Manual.

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PROCEDURE 15

IDENTIFYING, INVESTIGATING, AND REPORTING QUESTIONABLE ACTIVITIES AND CONDUCT OF OVERSIGHT FUNCTIONS

A. Applicability. Procedure 15 provides for the identification, investigation, and reporting of *questionable activities.*

B. Procedures Governing Questionable Activities.

1. Reporting. Personnel shall immediately report any questionable activity.

   a. Personnel shall normally report directly to the supervisor of the Coast Guard national intelligence component concerned.

   b. Supervisors receiving a report of a questionable activity shall immediately notify, in a manner determined by the Assistant Commandant for Intelligence, the Chief Counsel, and servicing legal office.

   c. Although reporting of questionable activities through the supervisor of the Coast Guard national intelligence component concerned is strongly encouraged, personnel may report by any means directly to the servicing legal office, which shall promptly notify the Chief Counsel and the Assistant Commandant for Intelligence.

   d. Nothing in this Manual shall interfere with the authority and function of the Inspector General with respect to criminal investigations of civilian employees, investigations and audits of Coast Guard activities, or intelligence oversight responsibilities assigned to the Inspector General of the Department under Executive Order 12863.

2. Review of Report. The servicing legal office shall promptly review each report of a questionable activity to determine the appropriate course of action as follows:

   a. If the questionable activity involves possible violations of federal criminal law by personnel assigned to Coast Guard national intelligence components, or intelligence activities that may be unlawful or contrary to executive order or presidential directive, the servicing legal office shall notify the Chief Counsel for further action under Procedures 15.C-D.

   b. If the questionable activity does not involve matters specified in Procedure 15.C-D, the servicing legal office shall forward the report to the supervisor of the Coast Guard national intelligence component concerned for administrative investigation.

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3. Review. Supervisors of Coast Guard national intelligence components that receive referrals from the servicing legal office regarding questionable activities shall conduct a review of the matter in a manner prescribed by the Assistant Commandant for Intelligence.

C. Procedures Governing Certain Violations of Criminal Laws. This section implements section 1.7(a) of Executive Order 12333 regarding reporting of certain federal crimes to the Attorney General.

1. The Chief Counsel shall report possible violations of federal criminal law by personnel assigned to Coast Guard national intelligence components to the General Counsel of the Department and the Attorney General in accordance with procedures established by the Department of Justice.

2. The Chief Counsel shall refer the matter for investigation to the appropriate investigative authority (e.g., Federal Bureau of Investigation, Inspector General, Coast Guard Investigative Service).

D. Procedures Governing Reports to the President's Foreign Intelligence Advisory Board. Procedure 15.D implements section 2.4 of Executive Order 12863. The Chief Counsel shall prepare and submit a report to the Inspector General and General Counsel of the Department and the Intelligence Oversight Board on a quarterly basis, and from time to time as necessary and appropriate, describing those intelligence activities determined to be unlawful or contrary to an Executive Order or presidential directive, and actions taken with respect to such activities. The reports shall also include significant oversight activities undertaken during the quarter and any suggestions for improvements in the oversight system.

E. Conduct of Oversight Inspections.

1. The Chief Counsel shall ensure the conduct of regular inspections of Coast Guard national intelligence components to ensure compliance with applicable statutes and Executive Orders governing the conduct of intelligence activities, and the provisions of this Manual. Such inspections shall be conducted by personnel designated by the Chief Counsel, such as the servicing legal office responsible for advising the Coast Guard national intelligence component concerned, staff elements of the Assistant Commandant for Intelligence with oversight expertise, or other IC oversight officials (e.g., Assistant to the Secretary of Defense for Intelligence Oversight).

2. Procedure 15.E shall not interfere with oversight inspections conducted by other authorized entities, including the Inspector General, General Counsel of the Department, and Intelligence Oversight Board.

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GLOSSARY

1. Administrative purposes. The information is necessary for the function of the component concerned but is not directly related to the performance of intelligence activities conducted by that Coast Guard national intelligence component. Such information would be limited to Coast Guard personnel and training records, contractor performance records, public and legislative affairs files, and correspondence files maintained in accordance with applicable directives.

2. Baseline. The line, drawn in accordance with international law, from which the territorial sea and other maritime jurisdictional zones (e.g., Exclusive Economic Zone) are measured. It is generally the low water line along the coast, (including the coasts of islands) and special closing lines across the mouths of rivers, bays, inlets, and other similar indentations.

3. Clandestine. Refers to the collection of information by a means designed to conceal that information is being collected and/or the means of collection.

4. Coast Guard national intelligence component. Any organizational part of the Coast Guard National Intelligence Element.

5. Coast Guard National Intelligence Element. The collective organization of Coast Guard units, staffs, and offices, or components authorized to conduct intelligence activities, including:

    - Personnel assigned to the staff of the Assistant Commandant for Intelligence and designated by the Assistant Commandant for Intelligence as part of the National Intelligence Element;
    - Personnel assigned to the Intelligence Coordination Center (ICC) and designated by the Assistant Commandant for Intelligence as part of the National Intelligence Element;
    - Personnel assigned to Area staffs and fusion centers and designated by the Assistant Commandant for Intelligence as part of the National Intelligence Element;
    - Personnel temporarily assigned or attached to other IC organizations and designated by the Assistant Commandant for Intelligence as part of the National Intelligence Element.

    The following persons have dual responsibility for supervising or providing legal advice to both Coast Guard national intelligence components and Law Enforcement Intelligence Program components and are not considered part of the Coast Guard National Intelligence Element for the purpose of this Manual:

    - Assistant Commandant for Intelligence;
    - Deputy Assistant Commandant for Intelligence;
    - Commanding Officer, ICC;

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- Chiefs of Area intelligence divisions/staffs (or commanding officers of fusion centers, if separate from Area Intelligence division/staff); and
- Law specialists/attorneys serving as legal advisors to national intelligence element components.

6. Coast Guard national intelligence personnel. Those Coast Guard military and civilian personnel designated by the Assistant Commandant for Intelligence as part of the Coast Guard National Intelligence Element, and those contractors or other IC personnel assigned to Coast Guard national intelligence components.

7. Coast Guard national intelligence record. Any writing, paper, drawing, map, recording, photograph, tape, film, file, or other documentary material collected by a Coast Guard national intelligence component and directly related to the conduct of intelligence activities. The term includes any such documentary material stored by computer. The term does not include law enforcement intelligence or information related to administrative purposes.

8. Collection. The gathering or receipt of information, regardless of source, by a Coast Guard national intelligence component, coupled with an affirmative act by that component demonstrating intent to use or retain that information for intelligence purposes.

   a. Information shall be considered as collected when it has been received for use by a Coast Guard national intelligence person in the course of that person's official duties and that person has taken an affirmative act demonstrating an intent to use that information for intelligence purposes after receipt (e.g., production of a report, filing of a summary, electronic or hardcopy storage of received information).

   b. Information received by a member of a Coast Guard national intelligence component and held or forwarded to a supervisory authority solely for the purpose of making a determination about the collectability of that information under Procedure 2, and not otherwise disseminated within the intelligence component, is not collection.

   c. Data acquired by electronic means is collected only when it has been processed into intelligible form.

9. Communications security. Protective measures taken to deny unauthorized persons information derived from telecommunications of the United States Government related to national security and to ensure the authenticity of such telecommunications.

10. Consent. The voluntary agreement by a person or organization to permit Coast Guard national intelligence components to take particular action that affects the person or organization. Consent may be oral or written unless a specific form of consent is required by a particular procedure. Consent may be implied if adequate legal notice, as determined by servicing Coast Guard legal office, is provided that a particular action (e.g., entering a building, using a telephone) carries with it the presumption of consent to an accompanying action (e.g., inspection of briefcase, monitoring of communications).

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11. Cooperating source. Cooperating source means persons or organizations that knowingly and voluntarily provide information, or access to information, to Coast Guard national intelligence components, either at the request of such components or on their own initiative. Cooperating source includes law enforcement intelligence or non-intelligence components of the Coast Guard (performing information collection pursuant to law enforcement or regulatory authority), other government agencies, law enforcement authorities, credit agencies, academic institutions, employers, and foreign governments.

12. Counterintelligence. Information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

13. Covert. Refers to special activities. The term is not synonymous with, and shall not be used to describe, clandestine collection of foreign intelligence, counterintelligence, law enforcement intelligence, or undercover law enforcement operations.

14. Day. A calendar day.

15. Department. Refers to the department in which the Coast Guard is operating.

16. Dissemination. Dissemination means the transmission, communication, sharing, or passing of information.

17. Domestic activities. Activities that take place within the United States that do not involve a significant connection with a foreign organization, power, or person.

18. Electronic surveillance. Acquisition of non-public communication by electronic means without the consent of a person who is a party to an electronic communication, or, in the case of a non-electronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction finding equipment solely to determine the location of a transmitter. Electronic surveillance within the United States is subject to the definitions provided in the Foreign Intelligence Surveillance Act of 1978, as amended.

19. Foreign intelligence. Information relating to the capabilities, intentions, or activities of foreign governments, or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

20. Foreign power. Any foreign government (regardless of whether recognized by the United States), foreign-based political party (or fraction thereof), foreign military force, foreign-based terrorist group, or any organization composed, in major part, of any such entity or entities.

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21. Incidental to authorized collection. The unintentional receipt of information as a consequence of authorized, intentional collection of information pursuant to Procedure 2.

22. Inspector General. Unless otherwise specified, refers to the Inspector General of the Department.

23. Intelligence activity. Activities that the Coast Guard National Intelligence Element is authorized to undertake pursuant to Executive Order 12333, and the National Security Act of 1947, as amended.

24. Intelligence Community and an agency of or within the Intelligence Community. Refers to the following organizations:

    a. Central Intelligence Agency;
    b. National Security Agency;
    c. Defense Intelligence Agency;
    d. The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
    e. National Imagery and Mapping Agency;
    f. The Bureau of Intelligence and Research of the Department of State;
    g. The intelligence elements of the Army, Navy, Air Force and Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard; and
    h. Those elements of the Department of Homeland Security that are supervised by the Department's Undersecretary for Information Analysis and Infrastructure Protection through the Department's Assistant Secretary for Information Analysis, with the exception of those functions that involve no analysis of foreign intelligence.

25. National intelligence. Foreign intelligence and counterintelligence.

26. International environmental threats. Activities not wholly within the United States carried out to cause damage to the natural resources of the United States in the United States Exclusive Economic Zone or elsewhere in violation of Titles 16 and 33, United States Code.

27. International fisheries threats. Activities not wholly within the United States to catch, harvest, or take fish or other marine animals in the United States Exclusive Economic Zone or elsewhere in violation of Title 16, United States Code.

28. International maritime alien migration activities. Activities not wholly within the United States to convey persons to the United States by maritime means in violation of Titles 8 and 18, United States Code, and Executive Orders and Presidential Directives governing the prevention and control of illegal immigration into the United States.

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29. International narcotics activities. Activities not wholly within the United States to produce, transfer, or sell narcotics or other substances controlled in accordance with Title 21, United States Code or those associated activities prohibited by Titles 21 and 46, United States Code.

30. International terrorist activities. Activities undertaken by or in support of terrorists or terrorist organizations that occur wholly outside of the United States, or that transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the location in which the perpetrators operate or seek asylum.

31. Law enforcement activities. Activities undertaken pursuant to Coast Guard law enforcement or regulatory authorities for the purpose of preventing or detecting violations of law, including regulations, or to locate and apprehend persons who violate the law. This includes activities to enforce the Uniform Code of Military Justice.

32. Law enforcement intelligence. Information collected, stored, and used by Law Enforcement Intelligence Program personnel or non-intelligence components of the Coast Guard pursuant to Coast Guard law enforcement and/or regulatory authority. For the purpose of this Manual, the term also includes information gathered by the marine safety, security, and environmental protection program.

33. Outside the United States. That area not within the United States, as defined in Enclosure (1).

34. Overt. Overt refers to collection of information whereby the source of the information being collected is advised, or is otherwise aware, that information is being provided to the Coast Guard.

35. Permanent resident alien. A foreign national lawfully admitted to the United States for permanent residence.

36. Personnel security. Measures designed to ensure that persons employed, or being considered for employment, in sensitive positions of trust are suitable for such employment with respect to loyalty, character, emotional stability, and reliability and that such employment is clearly consistent with the interests of national security. It includes measures designed to ensure that persons granted access to classified information remain suitable for such access and that access is consistent with the interests of national security.

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37. Personnel security investigation.

    a. An inquiry into the activities of a person granted access to intelligence or other classified information; or a person who is being considered for access to intelligence or other classified information, including persons who are granted or may be granted access to facilities of Coast Guard national intelligence components; or a person to be assigned or retained in a position with sensitive duties. The investigation is designed to develop information pertaining to the suitability, eligibility, and trustworthiness of the individual with respect to loyalty, character, emotional stability, and reliability.

    b. Inquiries and other activities directed against Coast Guard employees or members of a military service to determine the facts of possible voluntary or involuntary compromise of classified information by them.

    c. The collection of information about or from military personnel in the course of tactical training exercises for security training purposes.

38. Physical security. The physical measures taken to prevent unauthorized access to, and prevent the damage or loss or, equipment, facilities, material, and documents; and measures undertaken to protect Coast Guard personnel from physical threats to their safety.

39. Physical security investigation. All inquiries, inspections, or surveys of the effectiveness of controls and procedures designed to provide physical security; and all inquiries and other actions undertaken to obtain information pertaining to physical threats to Coast Guard personnel or property.

40. Publicly available. Information is publicly available if it has been published or broadcast for general public consumption, is available upon request to a member of the general public, could lawfully be seen or heard by a casual observer, or is made available at a meeting open to the general public. In this context, general public also means generally available to persons in the military community or the Department, even though the military community or Department is not open to the civilian general public.

41. Questionable activity. Any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any Executive Order or Presidential Directive, including Executive Order 12333, or this Manual. It also includes a violation of any federal criminal law by a person assigned to a Coast Guard national intelligence component.

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42. Reasonable belief. A reasonable belief arises when the facts and circumstances would cause a reasonable and prudent person, given the overall circumstances, to a certain conclusion. Reasonable belief must rest on articulable facts and circumstances, not mere hunches or intuition. Reasonable belief can be based on experience, training, and knowledge in foreign intelligence and counterintelligence work applied to facts and circumstances at hand, so that a trained, experienced reasonable person might hold a reasonable belief sufficient to satisfy this standard while someone unfamiliar with foreign intelligence or counterintelligence might not.

43. Retention. The maintenance, including storage, synthesis, analysis, production, and other use short of dissemination, of information about USPer that can be retrieved by reference to the person's name or other identifying data.

44. Servicing legal office. The staff of the Legal Officer or office of the Chief Counsel responsible for providing legal advice to the Coast Guard national intelligence component concerned.

45. Special activity. Activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, or media, and do not include diplomatic activities or the collection or production of intelligence or related support functions.

46. Supervisor. Supervisor means the commanding officer, division/branch chief, or other person directly responsible for the management and operation of a Coast Guard national intelligence component.

47. United States Exclusive Economic Zone. The zone of waters beyond and adjacent to the United States territorial sea extending 200 nautical miles from the baseline.

48. United States person (USPer).

    a. The following are USPer:

        (1) A United States citizen;

        (2) An alien known by the Coast Guard national intelligence component concerned to be a permanent resident alien;

        (3) An unincorporated association substantially composed of United States citizens or permanent resident aliens; or

        (4) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments. A corporation or corporate

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subsidiary incorporated abroad, even if partially owned or wholly owned by a corporation incorporated in the United States, is not a United States person.

b. A person or organization outside the United States shall be presumed not to be a USPer unless specific information to the contrary is obtained.

c. A person or organization within the United States shall be presumed to be a USPer unless specific information to the contrary is obtained. However, an alien within the United States shall be presumed not to be a USPer unless specific information to the contrary is obtained.

49. Within the United States. For the purpose of this Manual, the territory under the sovereignty of the United States, including the territorial seas of the United States extending 12 nautical miles from the *baseline*.

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