NSA/CSS POLICY 2-4
HANDLING OF REQUESTS FOR RELEASE OF U.S. IDENTITIES

DATE:	2 October 2019 (See Document History)
OFFICE OF PRIMARY INTEREST:	Information Sharing and Collaboration, P63, 963-3453s
RELEASABILITY:	NSA/CSS Policy 2-4 is approved for public release. The official document is available on the Office of Policy (P12) website ("go policy").
AUTHORITY: **ISSUED**:	Paul M. Nakasone, General, U.S. Army, Director, NSA/Chief, CSS 10 May 2019

PURPOSE AND SCOPE

1. This policy, developed in consultation with the Director of National Intelligence (DNI), the Attorney General, and the Secretary of Defense, implements Intelligence Community Policy Guidance 107.1, "Requests for Identities of U.S. Persons in Disseminated Intelligence Reports" (Reference a), and prescribes the policy, procedures, and responsibilities for responding to a *requesting entity*, other than NSA/CSS, for post-publication release and dissemination of *masked* *U.S. person identity information* in disseminated serialized NSA/CSS reporting.

2. This policy applies exclusively to requests from a requesting entity, other than NSA/CSS, for post-publication release and dissemination of nonpublic *U.S. person* identity information that was masked in a disseminated serialized NSA/CSS report. This policy does not apply in circumstances where a U.S. person has consented to the dissemination of communications to, from, or about the U.S. person.

3. This policy applies to all NSA/CSS personnel and to all U.S. Cryptologic System Government personnel performing an NSA/CSS mission.

4. This policy does not affect any minimization procedures established pursuant to the Foreign Intelligence Surveillance Act of 1978 (Reference b), Executive Order 12333 (Reference c), or other provisions of law. This policy does not affect the requirements established in Annex A, "Dissemination of Congressional Identity Information," of Intelligence Community Directive 112, "Congressional Notification" (Reference d).

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POLICY

5. With respect to requests covered by this policy, Information Sharing and Collaboration (IS&C, P63) shall document in writing at the time of the request the following information:

      a. The name or title of the individual who is making the request in an official capacity on behalf of the requesting entity.

      b. The serial number(s) of the NSA/CSS report(s) that contain(s) the requested U.S. person identity information.

      c. The name or title of each individual who will receive the U.S. person identity information at the time of release.

      d. A fact-based justification describing why such U.S. person identity information is required by each individual identified in subparagraph 5(c) to carry out the duties of the individual.

6. Requests covered by this policy shall be approved only by the Director, NSA/Chief, CSS (DIRNSA/CHCSS) or a designee to whom DIRNSA/CHCSS has delegated such authority in writing. If U.S. person identity information in an NSA/CSS report was originated by another Intelligence Community element, prior to releasing the U.S. person identity information in response to a request that is covered by this policy, IS&C shall obtain the concurrence of the head or designee of the originating element before approving the request.

7. IS&C shall retain records with respect to any request covered by this policy, including the disposition of such requests, as required by NSA/CSS Policy 1-6, "NSA/CSS Records Management Program" (Reference e), as permanent records. Active records shall be retained for not less than 5 years prior to being moved to archival status. Such records include, with respect to approved and denied requests, the name or title of the individual who approved or denied such requests.

8. In the event of *exigent circumstances* or where a delay could negatively impact intelligence activities, an immediate disclosure by an individual described in paragraph 6 to a requesting entity of U.S. person identity information may be approved based on the rationale provided by the requesting entity. The rationale may be provided orally or in writing. Within 5 business days after such a disclosure, the requesting entity shall provide the basis for making the request, in accordance with paragraph 5 of this policy.

9. With respect to any request that is covered by this policy that is made during a period beginning on the date of a general election for President and ending on the date on which such President is inaugurated:

      a. NSA/CSS shall require the individual of a requesting entity who is making the request to assert in writing whether or not that individual has knowledge or belief that any U.S. person identity information sought by the request is of an individual who is a member of the transition team as identified by the President-elect or Vice President-elect.

b. An individual described in paragraph 6 shall assert in writing whether or not, based on the face of the NSA/CSS report(s) to which the request pertains, that individual has knowledge or reasonable belief that any U.S. person identity information sought by the request is of an individual who is a member of the transition team as identified by the President-elect or Vice President-elect.

c. The documentation required under paragraph 5 shall include such assertions made pursuant to subparagraphs 9(a) and (b).

d. If a requesting entity has asserted that it has knowledge or belief pursuant to subparagraph 9(a), or an individual described in paragraph 6 has asserted that the individual has knowledge or reasonable belief pursuant to subparagraph 9(b), the approval made pursuant to paragraph 6 shall be subject to the concurrence of the NSA General Counsel (or in the absence of the General Counsel, the Principal Deputy General Counsel) that the dissemination of such U.S. person identity information is in accordance with the procedures under paragraph 5.

e. Consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, DIRNSA/CHCSS, in consultation with the DNI, shall notify the chairpersons and ranking minority members of the congressional intelligence committees of any approval described in subparagraph 9(d) not later than 14 days after the date of such approval.

10. Not later than 1 March of each year, beginning in 2020, DIRNSA/CHCSS shall submit to the DNI, the congressional intelligence committees, and the Secretary of Defense (by way of the Department of Defense Senior Intelligence Oversight Official), a report documenting the following information with respect to the preceding calendar year:

a. The total number of requests covered by this policy that NSA/CSS received;

b. Of the total, the number of requests approved;

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

d. For each number calculated under subparagraphs 10 (a) through (c) the sum total by each requesting entity.

RESPONSIBILITIES

Director, NSA/Chief, CSS (DIRNSA/CHCSS)

11. The Director, NSA/Chief, CSS (DIRNSA/CHCSS) shall:

a. Ensure that documentation for requests that are covered by this policy received from requesting entities includes information required by paragraph 5 and subparagraph 9(c), and that such documentation is retained for not less than 5 years, as required by paragraph 7;

b. Consider for approval, and approve as appropriate, or further delegate such authority to consider and approve as appropriate, requests that are covered by this policy that meet the requirements as specified in paragraph 6;

c. Ensure that approval of requests that are covered by this policy are subject to General Counsel concurrence, as specified in subparagraph 9(d);

d. Notify the congressional intelligence committees of approval of requests that are covered by this policy, as specified in subparagraph 9(e); and

e. Annually submit a report to the DNI, the congressional intelligence committees, and the Secretary of Defense, as specified in paragraph 10.

Information Sharing and Collaboration (IS&C, P63)

12. Information Sharing and Collaboration (IS&C, P63) shall:

a. Ensure that requesting entities, when submitting requests that are covered by this policy, provide the information necessary for documentation as required by paragraph 5 and subparagraph 9(c);

b. Create and retain records as required by paragraphs 5, 7, 8, and 9 and NSA/CSS Policy 1-6 (Reference e); and

c. Compile and provide to DIRNSA/CHCSS the information necessary to fulfill the reporting requirement to the DNI, the congressional intelligence committees, and the Secretary of Defense, as specified in paragraph 10.

Office of the General Counsel (D2)

13. The Office of the General Counsel (D2) shall ensure that the General Counsel, or in the absence of the General Counsel, the Principal Deputy General Counsel, considers for concurrence, and as appropriate concurs on, requests that are covered by this policy as specified in subparagraph 9(d).

Legislative, State, and Local Affairs Office (P3)

14. The Legislative, State, and Local Affairs Office (P3) shall transmit and ensure receipt by the congressional intelligence committees of DIRNSA/CHCSS notifications relating to the approval of requests covered by this policy, as specified in subparagraph 9(e), and information necessary to fulfill the reporting requirement, as specified in paragraph 10.

Civil Liberties, Privacy, and Transparency Office (D5)

15. The Civil Liberties, Privacy, and Transparency Office (D5) shall work with the DNI to review the reporting numbers in paragraph 10 and, consistent with the Intelligence Community's Principles of Intelligence Transparency and, where appropriate, the requirements of Executive Order 13526 (Reference f) to ensure the protection of national security information,

shall report the total numbers submitted annually for inclusion in the DNI's Statistical Transparency Report Regarding Use of National Security Authorities.

REFERENCES

a. Intelligence Community Policy Guidance 107.1, "Requests for Identities of U.S. Persons in Disseminated Intelligence Reports," dated 11 January 2018

b. Foreign Intelligence Surveillance Act of 1978, as amended, 50 U.S.C. 1801, et seq

c. Executive Order 12333, "United States Intelligence Activities," as amended

d. Annex A, "Dissemination of Congressional Identity Information," of Intelligence Community Directive 112, "Congressional Notification," dated 19 January 2017

e. NSA/CSS Policy 1-6, "NSA/CSS Records Management Program," dated 14 August 2017

f. Executive Order 13526, "Classified National Security Information," dated 29 December 2009

GLOSSARY

exigent circumstances—Circumstances when there is a reasonable basis to believe that there is imminent danger to a person's life or physical safety or when there are time-critical needs that pose significant risks to important U.S. interests.

U.S. person identity information— U.S. person information, as defined in Department of Defense Manual 5240.01, "Procedures Governing the Conduct of DoD Intelligence Activities," dated 8 August 2016.

masked—An enhanced safeguard for U.S. person identity information that uses alternate or generic wording to render the U.S. person identity information so that the reader may not ascertain the identity of that U.S. person in a signals intelligence dissemination.

requesting entity—An entity of the U.S. Government or a state, local, tribal, or territorial government that makes a request that is subject to this policy.

U.S. person— As defined in section 3.5 of Executive Order 12333 or section 101 of the Foreign Intelligence Surveillance Act of 1978, as appropriate.

DOCUMENT HISTORY

Date	Approved by	Description
10 May 2019	Paul M. Nakasone, General, U.S. Army, Director, NSA/Chief, CSS	Policy issuance; implements Intelligence Community Policy Guidance 107.1, "Requests for Identities of U.S. Persons in Disseminated Intelligence Reports," dated 11 January 2018.
2 October 2019	Chief, Policy	Administrative update to incorporate accessibility enhancements