



DoD 52401-R

DEPARTMENT OF DEFENSE

**PROCEDURES GOVERNING THE
ACTIVITIES OF
DOD INTELLIGENCE COMPONENTS
THAT AFFECT UNITED STATES PERSONS**

DECEMBER 1982

Incorporating Change 2, Effective April 26, 2017
(see DoD Directive 5148.13)

UNDER SECRETARY OF DEFENSE FOR POLICY


FOREWORD

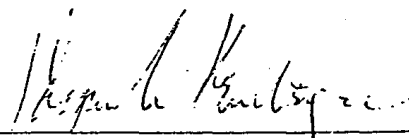
This DoD regulation sets forth procedures governing the activities of DoD intelligence components that affect United States persons. It implements DoD Directive 5240.1, and replaces the November 30, 1979 version of DoD Regulation 5240.1-R. It is applicable to all DoD intelligence components.

Executive Order 12333, "United States Intelligence Activities," stipulates that certain activities of intelligence components that affect U.S. persons-Be governed by procedures issued by the agency head and approved by the Attorney General. Specifically, procedures 1 through 10, as well as Appendix A, herein, require approval by the Attorney General. Procedures 11 through 15, while not requiring approval by the Attorney General, contain further guidance to DoD Components in implementing Executive Order 12333 as well as Executive Order 12334, "President's Intelligence Oversight Board".

Accordingly, by this memorandum, these procedures are approved for use within the Department of Defense. Heads of DoD components shall issue such implementing instructions as may be necessary for the conduct of authorized functions in a manner consistent with the procedures set forth herein.

This regulation is effective immediately.


10/4/82
Attorney General of the
United States


12/7/82
Secretary of Defense

The definitions and Procedures 1-10 were removed 8/8/2016 as a result of the publication of DoD Manual 5240.01. Procedures 14 and 15 were removed 4/26/17 as a result of the publication of DoD Directive 5148.13.

DoD 5240.1-R, December 1982

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REFERENCES

- (a) Executive Order 12333, "United States Intelligence Activities," December 4, 1981
- (b) Public Law 95-511, "Foreign Intelligence Surveillance Act of 1978"
- (c) DoD Directive 5200.29, "DoD Technical Surveillance Countermeasures (TSCM) Survey Program," February 12, 1975
- (d) Chapters 105 and 119 of title 18, United States Code
- (e) Public Law 73-416, "Communications Act of 1934," Section 605
- (f) Sections 801-840 of title 10, United States Code, "Uniform Code of Military Justice"
- (g) Agreement Between the Deputy Secretary of Defense and Attorney General, April 5, 1979
- (h) Executive Order 12198, "Prescribing Amendments to the Manual for Courts-Martial, United States, 1969," March 12, 1980
- (i) [DoD Directive 5525.5](#), "DoD Cooperation with Civilian Law Enforcement Officials," March 22, 1982
- (j) DoD Directive 5000.11, "Data Elements and Data Codes Standardization Program," December 7, 1964
- (k) DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976

C1. CHAPTER 1

PROCEDURE 11. CONTRACTING FOR GOODS AND SERVICES

C1.1. APPLICABILITY

This procedure applies to contracting or other arrangements with United States persons for the procurement of goods and services by DoD intelligence components within the United States. This procedure does not apply to contracting with government entities, or to the enrollment of individual students in academic institutions. The latter situation is governed by Procedure 10.

C1.2. PROCEDURES

C1.2.1. Contracts with Academic Institutions. DoD intelligence components may enter into a contract for goods or services with an academic institution only if prior to the making of the contract, the intelligence component has disclosed to appropriate officials of the academic institution the fact of sponsorship by a DoD intelligence component.

C1.2.2. Contracts with Commercial Organizations, Private Institutions, and Individuals. Contracting by or for a DoD intelligence component with commercial organizations, private institutions, or private individuals within the United States may be done without revealing the sponsorship of the intelligence component if:

C1.2.2.1. 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 or apartments, and other items incident to approved activities; or

C1.2.2.2. There is a written determination by the Secretary or Under Secretary of a Military Department, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, or the Deputy Under Secretary of Defense (Policy) that the sponsorship of a DoD intelligence component must be concealed to protect the activities of the DoD intelligence component concerned.

C1.3. EFFECT OF NONCOMPLIANCE

No contract shall be void or voidable for failure to comply with this procedure.

C2. CHAPTER 2

PROCEDURE 12. PROVISION OF ASSISTANCE TO LAW ENFORCEMENT
AUTHORITIES

C2.1. APPLICABILITY

This procedure applies to the provision of assistance by DoD intelligence components to law enforcement authorities. It incorporates the specific limitations on such assistance contained in E.O. 12333 (reference (a)), together with the general limitations and approval requirements of DoD Directive 5525.5 (reference (i)).

C2.2. PROCEDURES

C2.2.1. Cooperation with Law Enforcement Authorities. Consistent with the limitations contained in DoD Directive 5525.5 (reference(i)), and paragraph C2.2.2., below, DoD intelligence components are authorized to cooperate with law enforcement authorities for the purpose of:

C2.2.1.1. Investigating or preventing clandestine intelligence activities by foreign powers, international narcotics activities, or international terrorist activities;

C2.2.1.2. Protecting DoD employees, information, property, and facilities;
and

C2.2.1.3. Preventing, detecting, or investigating other violations of law.

C2.2.2. Types of Permissible Assistance. DoD intelligence components may provide the following types of assistance to law enforcement authorities:

C2.2.2.1. Incidentally acquired information reasonably believed to indicate a violation of Federal law shall be provided in accordance with the procedures adopted pursuant to section 1.7(a) of E.O. 12333 (reference (a));

C2.2.2.2. Incidentally acquired information reasonably believed to indicate a violation of State, local, or foreign law may be provided in accordance with procedures adopted by the Heads of the DoD Components;

C2.2.2.3. Specialized equipment and facilities may be provided to Federal law enforcement authorities, and, when lives are endangered, to State and local law

enforcement authorities, provided such assistance is consistent with, and has been approved by an official authorized pursuant to, Enclosure 3 of DoD Directive 5525.5 (reference (i)); and

C2.2.2.4. Personnel who are employees of DoD intelligence components may be assigned to assist Federal law enforcement authorities, and, when lives are endangered, State and local law enforcement authorities, provided such use is consistent with, and has been approved by an official pursuant to, Enclosure 4 of DoD Directive 5525.5 (reference (i)). Such official shall ensure that the General Counsel of the providing DoD Component concurs in such use.

C2.2.2.5. Assistance may be rendered to law enforcement agencies and security services of foreign governments or international organizations in accordance with established policy and applicable Status of Forces Agreements; provided, that DoD intelligence components may not request or participate in activities of such agencies undertaken against United States persons that would not be permitted such components under these procedures.

C3. CHAPTER 3

PROCEDURE 13. EXPERIMENTATION ON HUMAN SUBJECTS FOR INTELLIGENCE PURPOSES

C3.1. APPLICABILITY

This procedure applies to experimentation on human subjects if such experimentation is conducted by or on behalf of a DoD intelligence component. This procedure does not apply to experimentation on animal subjects.

C3.2. EXPLANATION OF UNDEFINED TERMS

C3.2.1. Experimentation in this context means any research or testing activity involving human subjects that may expose such subjects to the possibility of permanent or temporary injury (including physical or psychological damage and damage to the reputation of such persons) beyond the risks of injury to which such subjects are ordinarily exposed in their daily lives.

C3.2.2. Experimentation is conducted on behalf of a DoD intelligence component if it is conducted under contract to that component or to another DoD Component for the benefit of the intelligence component or at the request of such a component regardless of the existence of a contractual relationship.

C3.2.3. Human subjects in this context includes any person whether or not such person is a United States person.

C3.3. PROCEDURES

C3.3.1. Experimentation on human subjects conducted by or on behalf of a DoD intelligence component may be undertaken only with the informed consent of the subject, in accordance with the guidelines issued by the Department of Health and Human Services, setting out conditions that safeguard the welfare of such subjects

C3.3.2. DoD intelligence components may not engage in or contract for experimentation on human subjects without approval of the Secretary or Deputy Secretary of Defense, or the Secretary or Under Secretary of a Military Department, as appropriate.