

Headquarters U.S. Air Force

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Intelligence Oversight



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What is Intelligence Oversight?

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- **Measures taken to ensure the conduct of intelligence activities conform with U.S. Law, Executive Orders, DoD Directives, and Air Force Regulations**
- **Intel Oversight - protects the constitutional and legal rights and privacy of all U.S. persons**
 - **Ordered by EO 12333**
 - **Rooted in the U.S. Constitution and U.S. Supreme Court Decisions**
 - **Implemented by DOD Directive 5240.1, DOD Regulation 5240.1-R and AFI 14-104**
- **Specifically addresses the COLLECTION, RETENTION and DISSEMINATION of information on U.S. persons**



- IO applies to all Air Force active duty, Reserve, and ANG intelligence units, staff organizations, and non-intelligence organizations performing intel-related activities that could collect, analyze, process, retain or disseminate information on U.S. persons
 - Applies to military & government civilian personnel
 - Applies to contractors
- IO also applies to non-intelligence units and staff performing intelligence-related activities
- The program also pertains to any person tasked to perform an intelligence mission regardless of their unit of assignment



Purpose

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- **Primary Objective:** “To ensure units and staff organizations conducting intelligence activities do not infringe on or violate the rights of U.S. persons.” (AFI 14-104)
- **Protect against unauthorized collection, production, and dissemination of data involving U.S. persons**
- **IO addresses two potentially competing relationships:**
 - **Obtain intelligence information required to protect national security**
 - **Protect individual rights guaranteed by the Constitution and the laws of the U.S.**

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...” - 4th Amendment

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History

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- **Current IO programs are the direct result of abuses by DoD intelligence units collecting domestic intelligence on U.S. persons during the Civil Rights Movement and the anti-Vietnam demonstrations of the 1960s and 70s**
- **The Pike and Church Congressional hearings (late 70's) resulted in Presidents Ford, Carter and Reagan issuing Executive Orders (EO) on U.S. intelligence activities**
- **Privacy Act of 1974 and EO 11905 were signed into law by President Ford; the Executive Order was later reissued by President Carter as EO 12036**

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History (cont)

- **President Reagan signed EO 12333 on 4 Dec 81**
 - **Established the Oversight Program, clarified authority and responsibilities of U.S. intelligence agencies, and serves as the basis for other oversight directives**
- **IO implemented within DoD and AF by DoD Regulation 5240.1-R and AFI 14-104 respectively**



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IO Authorities

- **EO12333 - Defines goals, directions, and responsibilities of the IO program**
- **DoD Regulation 5240.1-R – Provides the sole authority by which DoD Intelligence components may collect, retain and disseminate information concerning U.S. persons; also contains the reporting structure for possible violations**
- **AFI 14-104 – Air Force Instruction governing Oversight of Intelligence Activities**
- **U.S. Signals Intelligence Directive (USSID) SP0018 – Classified document which defines policies and procedures and assigns responsibilities to ensure the missions and functions of the U.S. SIGINT System are conducted in a manner that safeguards the Constitutional rights of U.S. persons**



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Approval Authorities

Some collection against U.S. persons is authorized only when approved by senior intelligence officials; approval authorities are (see USSID SP0018, Section 4-Collection and DoD Regulation 5240.1-R for complete details):

- **Foreign Intelligence Surveillance Court**
- **Attorney General of the United States**
- **Director, National Security Agency/Chief, Central Security Service**



IO Training

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- **AFI 14-104, Section 5 states that all units performing an intelligence mission must provide Intelligence Oversight training to each affected member**
 - **INITIAL TRAINING:** Provided to all unit members performing Intel duties as a part of unit indoctrination
 - **ANNUAL REFRESHER TRAINING:** Provided to all unit personnel to ensure currency in IO matters
 - **PRE-DEPLOYMENT TRAINING:** Intel Oversight monitors will provide refresher training to personnel deploying if their IO currency will expire during the deployment



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DOD Regulation 5240.1-R Procedures

- **Procedures governing the activities of DoD Intelligence that affect US persons:**
 1. **General Provisions**
 2. **Collection of info about US persons**
 3. **Retention of info about US persons**
 4. **Dissemination of info about US persons**
 5. **Electronic surveillance**
 6. **Concealed monitoring**
 7. **Physical searches**
 8. **Searches and Exam. of mail**
 9. **Physical surveillance**
 10. **Undisclosed participation in organization**
 11. **Contracting for goods and services**
 12. **Assistance to law enforcement authorities**
 13. **Experimentation on human subjects**
 14. **Employee conduct**
 15. **Questionable activities (ID, report, invest.)**
- **Procedures contain detailed rules, prohibitions, and approval processes for specialized collection methods and techniques**



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What is a U.S. Person?

- **A U.S. citizen (resident in CONUS or OCONUS)**

- **An alien known to be a permanent resident (a green card holder)**
 - **An individual in the U.S. on a VISA IS NOT a U.S. person**

- **An unincorporated association substantially composed of U.S. citizens or permanent resident aliens**

- **Corporations incorporated in the U.S., except those directed and controlled by a foreign government**



Assistance to Law Enforcement

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- "Assistance to law enforcement is the topic of Procedure 12, DoD Regulation 5240.1-R, but requests for assistance will have to comply with restrictions contained in Federal law and should be forwarded through command channels to Air Staff"
- With proper authorization, DoD intelligence components are authorized to cooperate with law enforcement authorities for the purpose of:
 - Investigating or preventing clandestine intelligence activities by foreign powers, international narcotics activities or international terrorist activities
 - protecting DoD employees, information, property and facilities
 - Preventing, detecting or investigating other violations of law
 - Loss of life/imminent threat

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Reporting Questionable Activities

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- **Questionable Activities - “any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any executive order or Presidential directive, or applicable DoD policy”**
- **Unit members or staff are required to report “questionable activities” in accordance with DoD Regulation 5240.1-R, Procedure 15 and appendix A to any of the following:**
 - **Unit supervisor**
 - **Chain of command (*the preferred method; encouraged if feasible)**
 - **Unit JAG**
 - **IO Monitor**
 - **AF General Counsel**
 - **AF Inspector General**
 - **DoD Inspector General**
 - **DoD General Counsel**
 - **Assistant to the Secretary of Defense, IO**



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The Internet

- DoD Regulation 5240.1-R, Procedure 5, Procedure 10, and Procedure 11
 - While much of the information posted on the Internet is publicly available, an intelligence professional acting in an official capacity still must have the official mission before collecting, retaining, or disseminating even publicly available information about U.S. persons
 - This also applies to information found on SIPRNET and JWICS
 - AFI 14-104, Section 13 & DoD Regulation 5240.1-R Procedure 10
 - Certain internet-based activities are restricted by the rules requiring disclosure of an individual's intelligence organization affiliation
 - Intelligence personnel cannot go online and join chat rooms, forums, blogs, etc., to solicit information without disclosing their intelligence organization affiliation
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What Can Be Collected

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- Info is “collected” only when received for use by an employee of an intelligence component in the course of official duties.
 - Electronic data is “collected” only when processed into intelligible form
- U.S. person’s information may be collected under certain circumstances
 - ONLY IF organization has authorized mission to collect such data,
and
 - IF it falls within one or more of the 13 categories of information specified in Procedure 2, DOD Regulation 5240.1-R. That procedure also sets forth general criteria governing the means used to collect such information



What Can Be Collected (cont.)

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- **Imagery within the boundaries of a U.S. military training range**
 - **Not private facilities or housing areas- not directed at specific U.S. persons**
- **Domestic Imagery**
 - **Natural Disasters – Supports planning for emergency response & recovery**
 - **Counterintelligence, Force Protection and Security, Environmental Studies**
 - **Exercise, Training, Testing, or Navigational Purposes**
- **Air Force components must submit a Proper Use Memorandum (PUM) to National Geospatial Intelligence Agency for domestic imagery from classified national reconnaissance platforms**
- **COCOM or military service approved PUM is required for Domestic imagery from airborne platforms**