



DoD HUMINT LEGAL WORKSHOP

V-4

FUNDAMENTALS OF HUMINT TARGETING



(b)(3); 10 USC 424



Assistant General Counsel -



(b)(3); 10 USC 424

This briefing is classified

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Class Objective

- To provide an overview of legal restrictions on targeting US persons (USPs):
 - Executive Order 12333, as amended
 - DoD Regulation 5240.1-R

- Rules for Targeting Members of Sensitive Source Categories (USPs or Foreign Nationals (FNs)) inside and outside the US
 - DoD Instruction 5200.42, dated 8 Dec 2009 “Operational Use Restrictions”



Authorities

- EO 12333
 - Authority and Direction from the President for DIA to conduct intelligence activities
 - Also includes restrictions on what type of intelligence we can collect and how we can go about doing it
- DoD 5240.1-R Activities of DoD Intelligence Components that Affect USPs
 - Implements procedures for executing EO 12333
 - Approved by DOJ

(b)(1),(b)(3):10
USC 424,1.4(c)





DoD 5240.1-R Activities of DoD Intelligence Components that Affect US Persons

Collection Framework:

- Procedure 2 Collection of Information About USPs
 - General Rule = No collection on USPs
 - Defines USP
 - 16 Exceptions to the general rule
- Procedure 3 Retention of Information About USPs
- Procedure 4 Disseminating Information about USPs

Special Procedures (5-12):

- Procedure 10 Undisclosed Participation
- Procedure 11 Contracting for Goods and Services

Dealing with Violations (14,15)



Procedure 2 US Person Definition

- A United States Citizen
- A Permanent Resident Alien
- An unincorporated association substantially composed of U.S. citizens or Permanent Resident Aliens
- A corporation incorporated in the U.S. that is not controlled or directed by a foreign government
- Presumption: A person or organization outside of the U.S. is presumed not to be a U.S. Person unless information to the contrary becomes known.



You may collect on USPs if the information falls into one of 16 categories:

- **1. Information obtained with consent**
- **2. Publicly available information**
- **3. Persons acting for a foreign power**
- **4. Organizations owned or controlled by a foreign power**
- **5. Person believed to be involved with terrorist organization or activities**
- **6. MIAs, POWs, KIAs, or targets, victims or hostages of international terrorists**
- **7. Commercial organizations believed to have some relationship with foreign organizations or persons**
- **8. Persons involved in collecting CI for a foreign power or terrorist group**
- **9. Potential sources of assistance to intelligence activities**



Pages 8-12 are withheld
in full and not provided.

Info That May Be Collected

- **10. Protection of intelligence sources and methods**
- **11. Persons believed to threaten the security of DoD personnel or facilities**
- **12. Information collected as part of a lawful personnel or communications security investigation**
- **13. International narcotics activities**
- **14. Information supporting protection and safety of persons thought to be target, victim, or hostage of international terrorists**
- **15. Overhead reconnaissance not directed at a specific US Person**
- **16. DIA administrative determination**

(b)(3); 10 USC 424,
(b)(5)





Pages 14-17 are withheld in full and not provided.

ReCap: Rules for Foreign Nationals Vs. US Persons

(b)(1),(b)(3): 10 USC
424,(b)(5), 1.4 (c)

■ [Redacted]

- Basic Rule for US Persons under Procedure 2 5240.1-R:
 - Thou shall not collect on US Persons
 - Unless the collection falls under one of 16 exemptions
 - Normally rely on Exemption for Potential Source of Information or Assistance to US Intelligence Community

(b)(1),(b)(3): 10
USC 424,(b)
(5),1.4 (c)

■ [Redacted]



Pages 19-24 are withheld in full and not provided.

Application of Knowledge





Questions

(b)(3): 10 USC 424

