

NGA Instruction for Intelligence Oversight

1. References.

a. Primary. NGA PD 8900R4, Policy Directive for Collection, Exploitation, and Dissemination of Information, 5 January 2004.

b. Secondary.

(1) DoD Directive 5240.1, DoD Intelligence Activities, 25 April 1988.

(2) DoD 5240.1-R, Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons, December 1982.

2. Purpose. Establish the responsibilities and procedures for identifying and reporting questionable intelligence activities, specifically collection, retention, and dissemination of information concerning U.S. persons, and other prohibited activities. This instruction supersedes NI 8900.4R4, same title, 5 January 2004.

3. Policy.

a. NGA will conduct intelligence activities according to applicable laws and regulations, employing collection techniques necessary to perform its mission. NGA will not collect, retain, or disseminate information about U.S. citizens unless explicitly authorized.

(1) NGA employees will conduct intelligence activities only in accordance with applicable law, authorities, and regulations.

(2) No NGA employee will request any other person or entity to undertake any unauthorized intelligence activity.

(3) Violators of legal and policy guidance are subject to administrative action. NGA will refer cases to appropriate law enforcement agencies for prosecution and imposition of civil or criminal penalties.

b. NGA employees will immediately report any questionable intelligence activity to any or all of the following: an intelligence oversight officer (IOO), the Office of Geospatial Intelligence (OGM), the Office of General Counsel (OGC), the Office of Inspector General (OIG), the DoD Office of General Counsel (Intelligence), or the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)).

- c. No disciplinary or adverse action will be taken against any employee for reporting a questionable activity or apparent violations.
- d. NGA will ensure employees have a basic understanding of how to recognize and report questionable and illegal intelligence activities. This will consist of an initial block of instruction provided to all new employees as they commence their duties and annual refresher training to maintain employees' level of knowledge about the intelligence oversight (IO) program.
- e. ATSD(IO) and OIG will conduct periodic inspections of Agency intelligence activities. Employees will fully cooperate with inspection activities.

4. Applicability and Scope. This instruction applies to all NGA personnel. It describes all aspects of the IO program—reporting, training, inspections, and investigations.

5. Definitions. Additional terms are defined in DoD Directive 5240.1, and DoD 5240.1-R (references 1.b.(1) and (2), respectively).

- a. Employee. A person employed by, assigned to, or acting for an Agency within the Intelligence Community (including civilian and military personnel, contractors, assignees, detailees, and foreign nationals).
- b. Intelligence activities. The collection, production, and dissemination of foreign intelligence and counterintelligence by intelligence components.
- c. Questionable intelligence activities. Any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any Executive Order (E.O.) or Presidential Directive including E.O. 12333 (reference 1.b.(1)), or applicable DoD policy.

6. Responsibilities.

- a. The Director of NGA (D/NGA) has overall responsibility for NGA IO activities.
- b. OGM.
 - (1) Implements and maintains the IO program throughout the Agency.
 - (2) Coordinates requests for exceptions or amendments to any authority or procedure.
 - (3) Establishes and maintains a network of IOOs.
- c. OGC interprets applicable law, authorities, and regulations.

d. OIG.

(1) Investigates reports of questionable intelligence activities including the failure to report questionable activities or violations, and recommends appropriate corrective action to D/NGA.

(2) Conducts periodic and ad hoc compliance inspections of the Agency IO program.

e. Acquisition Directorate, Acquisition Contracts Office (AC).

(1) Ensures that contractors are informed of and comply with applicable law, authorities, and regulations when their performance under contract may involve activities subject to this instruction.

(2) Includes appropriate IO warnings and protective provisions in all solicitations and contracts.

(3) Applicable contracting officers or contract representatives function as IOOs for their responsible contractors, in coordination with OGM.

f. Human Development Directorate (HD)

(1) Ensures IO training is documented in employee personnel records.

(2) Develops and delivers initial and annual familiarization IO training and the training materials used in the training in coordination with OGC.

g. Directorates and Offices.

(1) Ensure that all intelligence activities within their assigned functions have been approved by proper authority and are conducted according to legal and policy guidance. Procurement packages submitted to AC must identify those items that may reasonably involve these intelligence activities.

(2) Seek immediate legal review prior to any intelligence activities that, in whole or in part, raise issues of legality, consistency, or propriety. Ensure that no employee, person, or entity is requested or tasked to undertake any unauthorized or unlawful intelligence activity.

(3) Immediately report any questionable intelligence activity or violations. Organizations will not conduct any inquiries or investigations into any report of questionable intelligence activity.

(4) Ensure organization personnel receive initial and annual IO training, and are aware of their requirement to be familiar with applicable law, authorities, and regulations, with special emphasis on the restrictions that apply to their particular operations and activities, and of their responsibility to report questionable intelligence activities and violations.

(5) Impose appropriate sanctions against any employee who

(a) Violates applicable IO law, authorities, and regulations.

(b) Takes any reprisal action against any other employee for reporting a questionable activity or violation of authorities.

(6) Facilitate OGM, OGC, OIG, and ATSD(IO) access to all areas, personnel, and information in order to perform their respective IO responsibilities, and ensure full cooperation of employees.

(7) Appoint IOOs for the Directorate, and subordinate Offices and units, and forward memorandums of appointment to OGM.

h. Intelligence oversight officers (IOOs).

(1) Serve as custodians of IO materials for their respective organization or group of employees.

(2) Facilitate IO training for their respective organization or group of personnel. For their respective employees without access to online training, IOOs must conduct IO training.

(3) Provide information regarding IO responsibilities to any personnel. Refer any personnel to OGM if additional information is required.

(4) Receive and forward to OGM, without delay or obfuscation, any report of questionable intelligence activities. IOOs may refer any person directly to OGM for reporting purposes.

(5) IOOs will not conduct any inquiry or investigation into any report of questionable intelligence activity.

i. Employees.

(1) Attend IO training annually with the intent to understand the policies and responsibilities of intelligence components regarding the collection, retention, and dissemination of information concerning U.S. persons.

(2) Refer to OGC proposals for, or questions about, intelligence activities that may be contrary to applicable law, authorities, or regulations.

(3) Immediately report to any IOO, OGM, OGC, OIG, DoD/GC(Intelligence), or ATSD(IO)) any questionable activity or violation of applicable law, authorities, or regulations.

7. Procedures.

a. Information. Directorates and offices ensure that all personnel have immediate access to the following documents: DoD Directive 5148.11, DoD Directive 5240.1, DoD Regulation 5240.1-R, and this instruction.

b. Organization IOO.

(1) Each Directorate or Office appoints a primary IOO. If necessary, additional IOOs are appointed for subordinate organizations within the Directorate or Office. The organization forwards a copy of the memorandum of appointment to OGM. OGM recommends appointment of one IOO for every 20-50 employees. An IOO may be the Directorate or Office Director. IOOs must be experienced and responsible individuals meeting the following criteria:

(a) Be a government civilian employee in pay band NI 4 or above, or a military officer in grade O-4 or above, and be able to hold the IOO position for at least two years.

(b) Have experience working with classified material.

(c) Have access eligibility for the highest level of classified information held within the Directorate or Office.

(2) IOOs provide information regarding IO responsibilities to any employee and refer the employee to OGM if additional information is required. IOOs receive and forward to OGM any employee report of questionable activities or violations.

c. Inquiries. Employees, organizations, and IOOs will not conduct any inquiry or investigation into any report of questionable intelligence activity or violation of law, authority, or regulation.

d. Reporting. In coordination with the OIG, OGM establishes effective procedures reporting questionable activities and ensures that all employees are aware of the IO reporting responsibility. Employees discovering a questionable intelligence activity must contact any IOO, OGM, or OIG by the most expedient means

available. Additionally, direct contact with OGC, DoD/GC(Intelligence) or ATSD(IO) is authorized. AC reports to OGM any questionable activities or violations identified by contractors. IOOs report to OGM any reported questionable activity. OGM then notifies OGC, OIG, D/NGA, and the ATSD (IO), as appropriate.

e. Training. HD develops and delivers (with the assistance of OGM) the necessary initial and annual familiarization training for all personnel. IOOs ensure personnel complete training and documentation is recorded with HD.

f. Inspections. OIG and OGM establish the guidelines and criteria for conducting IO compliance inspections. OIG will issue an annual inspection plan identifying NGA organizations to be inspected during the next fiscal year. OIG may interview any person, access any space, and inspect any file (hardcopy or electronic), regardless of classification or compartmentation. OIG documents inspection results and makes the inspection results available to OGM and the inspected organization.

g. Program status updates. In coordination with OIG and OGC, OGM reports quarterly to the ATSD(IO) and D/NGA on the Agency's intelligence oversight program.