

National Counterterrorism Center Implementation Procedures for the ODNI Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333

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Section 1. Introduction and General Provisions

A. Purpose and Scope

These procedures implement the requirement in Subsection 3.3 of the *Office of the Director of National Intelligence (ODNI) Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333* (the ODNI Procedures) pertaining to the additional collection authority of the National Counterterrorism Center (NCTC). These procedures, which are referred to hereinafter as the NCTC Implementation Procedures (NCTC IPs), apply to **NCTC employees**, and also provide internal guidance regarding the application of certain aspects of the ODNI Procedures to NCTC intelligence activities.

NCTC shall carry out all activities in accordance with the Constitution and applicable provisions of U.S. statutes, executive orders, and other presidential directives, as well as the ODNI Procedures. Nothing in these NCTC IPs shall supersede any requirement of U.S. law or the ODNI Procedures.

B. Status of Information Sharing Arrangements

NCTC maintains Information Sharing Arrangements (ISAs) with certain data providers in order to facilitate NCTC's efforts to **collect, access, and obtain** information to support its mission. These ISAs may include, but are not limited to, Memorandums of Understanding, Memorandums of Agreement, and Letters of Intent between NCTC and data providers. All ISAs in force on the date of this issuance remain in force according to their terms. **NCTC employees** shall comply with the terms of all applicable ISAs, unless compliance with the ISA would violate U.S. law or the ODNI Procedures. This may mean that data is subject to restrictions or requires protections greater than those required by the ODNI Procedures and these NCTC IPs.

The Attorney General has determined that the ODNI Procedures provide sufficient protections for U.S. person information the ODNI encounters in the legitimate exercise of its national security mission. In updating existing ISAs and concluding new ISAs, NCTC shall endeavor to the fullest possible extent to streamline those documents through reliance on and reference to the ODNI Procedures and these NCTC IPs. In furtherance of this provision, the documentation required pursuant to Subsections 3.3 and 4.2 of the ODNI Procedures may be incorporated into any ISAs or otherwise shared as appropriate with data providers as confirmation of the handling and accessibility controls and compliance monitoring conditions NCTC will place on the applicable data.

Section 2. Authorities and Responsibilities

A. Sources of NCTC's Authorities and Responsibilities

NCTC authorities and responsibilities include those NCTC possesses (a) as an ODNI Center under the National Security Act of 1947, Executive Order 12333, other applicable provisions of law, and presidential directives; and (b) through NCTC's authorizing statute (Section 119 of the National Security Act) and executive orders, provisions of law, and presidential directives relevant to NCTC mission activities. Accordingly, NCTC may conduct intelligence activities pursuant to the general authorities and responsibilities of the ODNI, as well as those authorities and responsibilities specific to NCTC.

Where the ODNI Procedures require that an activity be related to, consistent with, or relevant to an "ODNI authority and responsibility," such as the Procedures' Subsection 4.2(a) documentation requirement, consistency with either the general ODNI or NCTC-specific authorities and responsibilities, or both, as further described in these NCTC IPs would satisfy this requirement.

B. NCTC-Specific Authorities and Responsibilities under the National Security Act

I. D/NCTC Authorities and Responsibilities

Pursuant to Section 119(f) and (j) of the National Security Act, the Director of NCTC shall:

- Serve as the principal adviser to the DNI on intelligence operations relating to counterterrorism;
- Provide strategic operational plans for the civilian and military counterterrorism efforts of the U.S. Government and for the effective integration of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;
- Advise the DNI on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the U.S. Government conform to the priorities established by the President;
- **Disseminate terrorism information**, including current terrorism threat analysis, to the President, the Vice President, the Secretaries of State, Defense, and Homeland Security, the Attorney General, the Director of the Central Intelligence Agency, and other officials of the executive branch as appropriate, and to the appropriate committees of Congress;
- Support the Department of Justice and the Department of Homeland Security, and other appropriate agencies, in fulfillment of their responsibilities to **disseminate terrorism information**, consistent with applicable law, Attorney General guidelines, Executive orders and other Presidential guidance, to State and local government officials, and other entities, and coordinate **dissemination of terrorism information** to foreign governments as approved by the DNI;

- Develop a strategy for combining terrorist travel intelligence operations and law enforcement planning and operations into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility;
- Have primary responsibility within the U.S. Government for conducting net assessments of terrorist threats;
- Consistent with priorities approved by the President, assist the DNI in establishing requirements for the **intelligence community** for the **collection of terrorism information**;
- Monitor the implementation of strategic operational plans for counterterrorism operations and **obtain** information from each element of the **intelligence community**, and from each other department, agency, or element of the U.S. Government relevant for monitoring the progress of such entity in implementing such plans; and
- Perform such other duties as the DNI may prescribe or are prescribed by law.

II. NCTC Authorities and Responsibilities

Pursuant to Section 119(d) of the National Security Act, the primary missions of the NCTC are to:

- Serve as the primary organization in the U.S. Government for analyzing and integrating all intelligence possessed or acquired by the U.S. Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism;
- Conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies;
- Assign roles and responsibilities as part of its strategic operational planning duties to lead Departments or agencies, as appropriate, for counterterrorism activities that are consistent with applicable law and that support counterterrorism strategic operational plans, but shall not direct the execution of any resulting operations;
- Ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis;
- Ensure that such agencies have access to and receive intelligence needed to accomplish their assigned activities; and
- Serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.

Section 119(e)(1) provides additional authorities concerning **domestic counterterrorism intelligence**. It permits NCTC, consistent with applicable law, the direction of the President, the ODNI Procedures, and these NCTC IPs, to receive intelligence pertaining exclusively to

domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.

III. Additional Authorities of the Directorate of Intelligence

Pursuant to Section 119(i), the Directorate of Intelligence (DI) has primary responsibility within the U.S. Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States.

IV. Additional Authorities of the Directorate of Strategic Operational Planning

Pursuant to Section 119(j), the Directorate of Strategic Operational Planning (DSOP) shall provide strategic operational plans for counterterrorism operations conducted by the U.S. Government.

Section 3. Collecting, Accessing, and Obtaining Information

NCTC may **collect, access, obtain**, and receive voluntarily provided information concerning **U.S. persons** only in accordance with Section 3 of the ODNI Procedures and these NCTC IPs. This Section contains additional guidance on **collection** and **access**.

A. Collection

NCTC is authorized to **collect** information concerning **U.S. persons** consistent with Subsection 3.1 of the ODNI Procedures.

In addition, as reflected in Subsection 3.3 of the ODNI Procedures, NCTC may **collect terrorism information** and “intelligence pertaining exclusively to domestic counterterrorism” (**domestic counterterrorism intelligence**).

The following requirements apply to all NCTC **collection**:

- The **collection** relates to and is consistent with an ODNI authority and responsibility described in Section 2 of the ODNI Procedures (which for NCTC includes and generally constitutes an authority and responsibility described in Section 2 of these NCTC IPs);
- The information is **collected overtly** or through **publicly available** sources; and
- The **collection** is conducted only in accordance with the ODNI Procedures and these NCTC IPs and is reasonably believed to:
 - Fall within one or more of the categories specified in Subsection 3.1(c) of the ODNI Procedures;
 - Contain **terrorism information**; or
 - Contain **domestic counterterrorism intelligence**.

B. Access

NCTC is authorized to **access** information consistent with Subsection 3.2 of the ODNI Procedures.

NCTC **accesses** information by viewing or examining it for official purposes without storing or otherwise maintaining it under NCTC’s control. Storing or otherwise maintaining information under NCTC’s control would include, for example, copying or saving onto a local server or using or applying the information in some manner.

NCTC analysts may only query other executive branch department or agency data to which NCTC has account-based access using terms that are reasonably designed to retrieve information related to a duly authorized activity and, to the extent practicable, minimize the return of unrelated **U.S. person** information. If the query is designed to retrieve information about an unconsenting **U.S. person**, analysts should also identify the particular purpose of the query.

If NCTC **collects** or **obtains** some portion of the information it **accesses**, it will apply the provisions of the ODNI Procedures and these NCTC IPs that apply, respectively, to **collected** or **obtained** information.

Section 4. Approval and Documentation Requirements

Section 4 of the ODNI Procedures requires that NCTC complete specific documentation for all **collection** and **obtainment** that:

- (a) Exceeds NCTC's capacity to **evaluate** the information immediately for **retention** under the criteria of Section 6 of the ODNI Procedures; or
- (b) Under the criteria of Section 6 of the ODNI Procedures, is determined to qualify for **retention** in its entirety without individualized review of the data contained within the set of information.

In addition to the requirements for the content of this documentation contained in Subsection 4.2 of the ODNI Procedures, Subsection 3.3 requires that before NCTC **collects** a new agency dataset, it document the reasons why NCTC's needs cannot be fully met by **accessing** the dataset without **collecting** it (this does not apply to datasets **obtained** from other Intelligence Community elements).

The documentation required by Subsections 3.3 and 4.2 of the ODNI Procedures shall be drafted by the Office of Data Strategy and Compliance (ODSC) in coordination with NCTC Legal (a component of the ODNI Office of General Counsel (OGC)), the NCTC Civil Liberties and Privacy Officer (a representative of the ODNI Office of Civil Liberties, Privacy, and Transparency (CLPT)), and the Office of Information Technology Services (ITS), and signed by an appropriate senior official, as designated by the DNI.

Section 5. Unevaluated Information

Unevaluated information that NCTC **collects** or **obtains** pursuant to Section 3 of the ODNI Procedures and these NCTC IPs must be handled in accordance with Section 5 of the ODNI Procedures and these NCTC IPs. This Section contains additional guidance on handling and querying **unevaluated information**.

A. Continuous Review

As reflected in Subsection 3.3 of the ODNI Procedures, in order to identify **terrorism information** pursuant to Section 119 of the National Security Act, NCTC may **continuously review** datasets maintained by other federal government departments and agencies that may constitute or contain terrorism information, datasets pertaining exclusively to domestic terrorism, and other information maintained by executive departments and agencies identified as including non-terrorism information. Accordingly, NCTC may **continuously review unevaluated information** subject to exceptional and routine handling in order to identify **terrorism information** consistent with the exceptional and routine handling requirements applicable to each dataset.

B. Exceptional Handling of Unevaluated Information Collected or Obtained Solely to Identify Domestic Counterterrorism Intelligence

Unevaluated information NCTC **collects** or **obtains** *solely* for the purpose of identifying **domestic counterterrorism intelligence** in support of an agency with an authorized domestic counterterrorism mission is subject to exceptional handling requirements and any additional protections D/NCTC may find appropriate pursuant to Subsection 5.2.1 of the ODNI Procedures.

C. Queries

I. Routine Handling Queries

Pursuant to Subsection 5.3.4 of the ODNI Procedures, **NCTC employees** may query **unevaluated information** subject to routine handling if the query is reasonably designed to retrieve information related to an authorized ODNI/NCTC activity. For NCTC, this generally means queries reasonably designed to identify **terrorism information**.

In addition, consistent with existing NCTC practice, to the extent practicable, queries must minimize the return of information concerning **U.S. persons** that is not related to a duly authorized ODNI/NCTC activity.

II. Exceptional Handling Queries

Pursuant to Subsection 5.2.3 of the ODNI Procedures, **NCTC employees** may query **unevaluated information** subject to exceptional handling only when:

- The query is reasonably designed to retrieve information related to an authorized ODNI/NCTC activity. For NCTC, this generally means queries reasonably designed to identify **terrorism information**;

- To the extent practicable, queries must be designed to minimize the return of responsive information concerning **U.S. persons** that is not related to a duly authorized ODNI/NCTC activity; and
- When the query is designed to retrieve information concerning a **U.S. person**, in addition to the above requirements, either:
 - The subject **U.S. person** has provided **consent**; or
 - To the extent practicable, the query is accompanied by a statement (i.e., query justification) explaining its particular purpose.

In one or two sentences, the statement/query justification should explain why the analyst believes the query is reasonably likely to identify information relevant to an authorized ODNI/NCTC activity, and where possible, indicate query source information such as cable numbers, disseminated intelligence reports, or call event IDs.

III. Domestic Counterterrorism Queries

Queries of all **unevaluated information** NCTC maintains pursuant to Section 5 of the ODNI Procedures and these NCTC IPs that are designed to retrieve **domestic counterterrorism intelligence** are governed by the requirements for queries of unevaluated information subject to exceptional handling set forth in Subsection 5.2.3 of the ODNI Procedures and Subsection 5.C.II of these NCTC IPs, as well as the following:

- No **NCTC employee** shall conduct a query designed to retrieve **domestic counterterrorism intelligence** without first:
 - Being designated by an appropriate supervisor to perform an authorized NCTC domestic counterterrorism activity; and
 - Completing applicable NCTC training on domestic counterterrorism authorities.
- To the extent practicable, queries designed to retrieve **domestic counterterrorism intelligence** must be accompanied by a statement explaining the particular purpose of the query that:
 - Distinguishes the purpose from one solely designed to monitor constitutionally protected speech or activity; and
 - States how the query will support a lead domestic counterterrorism agency.
- Query justifications will be reviewed on a regular basis by relevant supervisors, the ODSC Compliance and Training Group (CTG), NCTC Legal, and the NCTC CLPO.

IV. Queries for Intelligence Purposes Unrelated to the Identification of Terrorism Information or Domestic Counterterrorism Intelligence

Queries of **unevaluated information** NCTC maintains pursuant to Section 5 of the ODNI Procedures and these NCTC IPs for intelligence purposes unrelated to the identification of **terrorism information** or **domestic counterterrorism intelligence** (for example, to support

requests by other ODNI components, Intelligence Community elements, or departments and agencies to provide assistance to their lawfully authorized activities) require D/NCTC approval in consultation with NCTC Legal and following appropriate coordination with the DNI or designee.

Section 6. Retention of Information Concerning U.S. Persons

A. Retention

Pursuant to Section 6 of the ODNI Procedures, NCTC may **retain** information concerning a **U.S. person** that it has **obtained** from another Intelligence Community element that has already evaluated and retained the information under its own procedures.

NCTC may also **retain U.S. person** information it or another component of the ODNI has lawfully **collected** or **obtained** when at least one of the conditions listed in Subsection 6.1 of the ODNI Procedures is met.

In addition, and consistent with its authorities under the National Security Act, the Intelligence Reform and Terrorism Prevention Act of 2004, and Subsection 3.3 of the ODNI Procedures, NCTC may **retain** any information constituting **terrorism information** or **domestic counterterrorism intelligence**.

If information concerning a **U.S. Person** qualifies for **retention**, **U.S. Person Identifying Information (USPII)** relating to that person may also be **retained** if the **USPII** is necessary, or if it is reasonably believed that the **USPII** may become necessary, to understand, assess, or act on the information.

B. Handling and Querying Retained Information

Availability and use of **retained U.S. person** information shall be limited to those **employees** with appropriate security clearances, access approval, training, and needs related to duly authorized activities.

NCTC employees may only query **retained** information if the query is reasonably designed to retrieve information related to an authority and responsibility listed in Section 2 of the ODNI Procedures or these NCTC IPs.

No **NCTC employee** shall conduct a query designed to retrieve **domestic counterterrorism intelligence** without first being designated by an appropriate supervisor to perform an authorized NCTC domestic counterterrorism activity and completing applicable NCTC training on domestic counterterrorism authorities.

Section 7. Dissemination of Information Concerning U.S. Persons

NCTC may distribute within the ODNI and **disseminate** information concerning **U.S. Persons** only in accordance with Section 7 of the ODNI Procedures.

Section 8. Participation in Organizations in the United States

NCTC employees may participate in organizations in the United States only where consistent with Section 8 of the ODNI Procedures.

Section 9. Oversight and Compliance Responsibilities

A. Responsibilities

In furtherance of the Oversight and Compliance responsibilities of the ODNI reflected in Section 9 of the ODNI Procedures:

The D/NCTC shall implement the ODNI Procedures in coordination with the Principal Deputy DNI (PDDNI) or designee, provide training to personnel who require access in the performance of their duties to information governed by the ODNI Procedures, and assist the PDDNI or designee, Inspector General, and ODNI Civil Liberties Protection Officer in conducting oversight.

The ODSC is responsible for managing and coordinating NCTC's compliance activities and compliance-related training to ensure adherence to the ODNI Procedures and these NCTC IPs. The ODSC will maintain appropriate internal policies to further implement NCTC data acquisition, data handling, and compliance requirements consistent with the ODNI Procedures and these NCTC IPs.

B. Training

All NCTC **employees** will receive initial training on the conduct of NCTC intelligence activities governed by the ODNI Procedures and these NCTC IPs upon joining NCTC and will complete annual refresher training.

All NCTC **employees** provided access to datasets governed by the ODNI Procedures and these NCTC IPs will receive training in the use of each dataset to which they will have access. Such training will include instruction on applicable compliance safeguards, restrictions, and other privacy and civil liberties protections.

C. Safeguards

NCTC's compliance framework features a series of compliance standards, each comprising compliance rules, internal controls, and monitoring activities. NCTC will manage its compliance standards to effectively oversee implementation of the ODNI Procedures and these NCTC IPs, while continuously assessing its existing processes and evaluating new methods for greater efficiency and accuracy.

D. Program Review

No later than three years after the date of signature, and every three years thereafter, NCTC shall conduct a review of these NCTC IPs and propose any modifications to D/NCTC that are consistent with the ODNI Procedures, in coordination with NCTC Legal and the NCTC CLPO.

Section 10. Definitions

This Section incorporates definitions contained in Section 10 of the ODNI Procedures and includes the following additional definitions for terms used exclusively in these NCTC IPs.

A. Continuous Review

Continuous review is the act of recurrently comparing datasets at established intervals to systematically match and link data across disparate data sources manually or through automated processes.

B. Domestic Counterterrorism Intelligence

Intelligence pertaining exclusively to domestic counterterrorism, or **domestic counterterrorism intelligence**, is that information and intelligence concerning efforts to counter domestic terrorism, as defined in 18 U.S.C. § 2331(5), with no known nexus to international or transnational terrorism or foreign terrorist organizations.

18 U.S.C. § 2331(5) defines domestic terrorism as activities that: (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (B) appear to be intended: (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and (C) occur primarily within the territorial jurisdiction of the United States.

NCTC relies on the assessments of lead domestic counterterrorism agencies, namely the Federal Bureau of Investigation and Department of Homeland Security, which determine whether the acts of particular individuals or groups come within the definition of domestic terrorism.

C. NCTC Employee

NCTC employee refers to a subset of ODNI **employees** to whom these NCTC IPs apply and means a person employed by or acting on behalf of NCTC, including contractors, detailees, and, in certain limited circumstances, assignees. NCTC policy may restrict certain systems and accesses to **NCTC employees**.

Section 11. Administration and Effective Date

The responsibilities of specific officials identified in these NCTC IPs shall be exercised by those officials, a person officially acting in that capacity, or, where applicable, a person who is senior in the official's chain of command.

In the event of any changes to NCTC's organizational structures or titles of offices or officials identified in these NCTC IPs, approving authorities and responsibilities will transfer to the equivalent official or office under the new organizational structure.

D/NCTC may make substantive amendments to these NCTC IPs that are consistent with the ODNI Procedures in consultation with ODSC, ODNI OGC, and ODNI CLPT, and with appropriate coordination with the DNI or designee. Nonsubstantive or clerical amendments, such as correcting typographical errors and updating organizational titles and cross-references, require approval of D/NCTC and notification as appropriate to the DNI or designee.

These NCTC IPs are internal instructions to the NCTC workforce. They are not intended to, do not, and may not be relied on to create any substantive or procedural right or benefit enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees, or agents, or any other person.

These NCTC IPs are effective once signed and upon the effective date of the ODNI Procedures.

Signature and Date Signed

I approve the foregoing NCTC Implementation Procedures for the ODNI Intelligence Activities Procedures Approved by the Attorney General Pursuant to Executive Order 12333.

3/22/21
Date



Acting Director
National Counterterrorism Center