

Procedures for Foreign Disclosure and Release Requiring Interagency Coordination, Notification, and DNI Approval

A. (U) **AUTHORITY:** The National Security Act of 1947, as amended; Executive Order (EO) 12333, as amended; EO 13526; 22 CFR 181.4; and other applicable provisions of law.

B. (U) **PURPOSE:** Establish procedures under Intelligence Community (IC) Directive (ICD) 403, *Foreign Disclosure and Release of Classified National Intelligence* for the interagency coordination, notification and Director of National Intelligence (DNI) approval of foreign disclosure and release of classified national intelligence.

C. (U) **APPLICABILITY**

1. (U) This Intelligence Community Policy Guidance (ICPG) applies to the IC, as defined by the National Security Act of 1947, as amended; and to such elements of any other department or agency as may be designated an element of the IC by the President, or jointly by the DNI and the head of the department or agency concerned.

2. (U) This ICPG does not apply to disclosure or release of classified military information pursuant to National Disclosure Policy 1 and National Security Decision Memorandum-119.

3. (U [REDACTED]) This ICPG does not apply to the coordination of foreign intelligence relationships. This ICPG establishes procedures for the coordination, notification, and approval of foreign disclosure and release of classified national intelligence.

4. (U) This ICPG does not apply to Restricted Data and Formerly Restricted Data. Such data may only be disclosed or released to foreign governments pursuant to an agreement for cooperation as required by the Atomic Energy Act of 1954, as amended.

5. (U [REDACTED]) This ICPG does not apply to intelligence derived from Foreign Intelligence Surveillance Act (FISA) information, unless the FISA statute or the Foreign Intelligence Surveillance Court permits such information to be disclosed or released to foreign entities and such disclosure or release is not otherwise prohibited by the Privacy Act, 5 USC 552a. Where disclosure or release of this information is not permitted by the FISA statute or the Court, or would be prohibited by the Privacy Act, the FISA-derived information cannot be released or disclosed to foreign entities.

D. (U [REDACTED]) **PROCEDURES:** Procedures for foreign disclosure and release requiring coordination, notification or DNI approval are determined by the categories described below:



1. (U [REDACTED]) Procedures for coordination, notification, and approval of foreign disclosure or release made pursuant to foreign disclosure or release guidance (for example, memoranda, arrangements, agreements, and IC element policies (hereafter, guidance)). Terms for foreign disclosure and release of intelligence may be included as part of foreign disclosure or release guidance, often formalized in a Memorandum of Agreement or Understanding detailing pre-determined intelligence categories or topics, classification levels, and other parameters that define the intelligence to be disclosed or released.

a. (U) Generally, disclosures and releases pursuant to existing guidance do not require additional coordination, notification, or approval.

b. (U [REDACTED]) Pursuant to ICD 403, Section E.11, existing foreign disclosure or release guidance established before 13 March 2013 remains valid to the extent that it is consistent with that Directive.

c. (U) Expansions of foreign disclosure or release guidance shall be characterized as significant or limited.

(1) (U) *Significant expansions* of guidance substantially alter the nature or scope of the terms of disclosure or release, or of the foreign intelligence relationship, or have a significant or new foreign policy implication and shall be approved by the DNI or designee and coordinated with appropriate IC elements. The addition of topics or recipient nations, for example, would constitute a significant expansion. Significant expansions require the following:

(a) (U) Coordination with relevant IC coordination committees (for example, the National Signals Intelligence Committee or the Remote Sensing Policy Committee);

(b) (U) Coordination with the Director of the Central Intelligence Agency (D/CIA), as required to meet the D/CIA's statutory responsibilities and consistent with ICD 403, Section E.8; and

(c) (U) Coordination with the Assistant Secretary of State for Intelligence and Research who shall ensure completion of the foreign policy review required by Section 1.3(b)(23) of E.O. 12333 and any other required review. The response of the Assistant Secretary shall be included when the foreign disclosure or release guidance is submitted for DNI approval.

(d) (U [REDACTED]) To support DNI approval and facilitate IC coordination, the requesting IC element shall specify: the identifiable benefit expected to accrue to the U.S. as a result of the disclosure or release; the parameters that define the information to be shared; the risk, if any, to national security in disclosing or releasing this information to the proposed foreign entity or entities; the potential foreign recipients; and the potential impact on privacy and civil liberties.

(2) (U) *Limited expansions* of guidance do not substantially alter the nature or scope of the terms of disclosure or release, or of the foreign intelligence relationship, and do not have a significant or new foreign policy implication. Limited expansions may be approved by the head of the IC element that issued the guidance, subject to resolution of any concerns raised in accordance with Section D.1.c(2)(c), below.

(a) (U) Limited expansions do not require IC coordination or DNI approval, but heads of IC elements may nonetheless coordinate with affected IC elements or seek DNI approval.

(b) (U) Limited expansions do, however, require prior notification of five business days to the Department of State, Bureau of Intelligence and Research, the Central Intelligence Agency, other affected IC elements and the Office of the DNI (ODNI).

(c) (U) During the notification period required by D.1.c(2)(b), affected IC elements or the ODNI may register a concern that the action would substantially alter the nature or scope of the terms of disclosure or release or of the foreign intelligence relationship or have a significant or new foreign policy implication. Resolution of these concerns shall be in accordance with the dispute resolution process outlined in ICD 403, Section E.7.

d. (U [REDACTED]) The establishment of foreign disclosure or release guidance requires the approval of the DNI, consistent with his authority in ICD 403, Section F.1.b to authorize disclosures or releases of intelligence that represent the establishment, modification or termination of, or exceptions to, IC guidance, or that concern matters where DNI direction is absent. The establishment of foreign disclosure or release guidance also requires coordination with D/CIA and appropriate IC element heads. Requests for approval and coordination shall proceed in the same manner as for significant expansions, as set forth in Section D.1.c(1), above.

e. (U) IC element policies and procedures shall be submitted to the DNI within 180 days of the effective date of this ICPG for review to ensure consistent implementation of ICD 403 across the IC.

2. (U) Procedures for coordination, notification, and approval of foreign disclosure or release in response to a particular event or incident.

a. (U) To ensure an integrated IC approach, the DNI may provide direction to the IC in response to National Security Council policy direction or a request by appropriate policy-makers. DNI direction may affect the parameters of existing foreign disclosure or release guidance or authorize disclosures and releases not addressed in existing guidance.

(1) (U) DNI direction shall be coordinated through the Foreign Relations Committee (FRC) before being finalized, unless the event to which the direction responds requires an expedited approach.

(2) (U) The final direction approved by the DNI or designee shall be disseminated through the FRC representatives.

b. (U) In all cases, foreign disclosure or release under such direction shall be conducted in accordance with ICD 403 and ICPG 403.1, *Criteria for Foreign Disclosure and Release of Classified National Intelligence*.

3. (U) Procedures for coordination, notification, and approval of ad hoc foreign disclosure or release.

a. (U) Ad hoc foreign disclosure or release is any release of intelligence that does not fall under the descriptions of foreign disclosure or release guidance in Section D.1 or foreign disclosure or release in response to a particular event or incident as described in Section D.2.

b. (U) Ad hoc foreign disclosure or release shall be consistent with ICD 403 and ICPG 403.1.

c. (U) For ad hoc foreign disclosure or release of intelligence to Senior Foreign Officials, IC elements shall follow the guidance provided in Director of Central Intelligence Directive 6/7, Attachment A, Section D, or successor guidance.

d. (U) For ad hoc foreign disclosure or release under emergency conditions, IC elements shall follow the guidance provided in ICPG 403.3, *Criteria and Conditions for Emergency Foreign Disclosure and Release*.

E. (U) ROLES AND RESPONSIBILITIES

1. (U) The DNI will:

a. (U) In accordance with ICD 403, Section F.1.b, approve the establishment of new foreign disclosure or release guidance and significant expansions of existing foreign disclosure or release guidance;

b. (U) Ensure that appropriate DNI Representatives/Chiefs of Station and Chiefs of Mission are informed of new foreign disclosure or release guidance and significant and limited expansions of established foreign disclosure or release guidance; and

c. (U) Review IC element policies, as appropriate, to ensure consistent implementation of this ICPG across the IC.

2. (U) The Assistant DNI for Partner Engagement shall serve as the DNI's designee for matters related to the foreign disclosure and release of intelligence, the coordination and dissemination of foreign disclosure or release guidance in response to a particular event or incident, and the implementation of this ICPG.

3. (U) Heads of IC elements, Senior Foreign Disclosure and Release Authorities, Foreign Disclosure and Release Officers, and any other IC personnel charged with foreign disclosure or release responsibilities shall ensure that foreign disclosures and releases of classified intelligence are authorized and performed in a manner consistent with ICD 403, ICPG 403.1, and this ICPG.

4. (U) Heads of IC elements shall:

a. (U) Coordinate, notify, and seek approval as required by this ICPG;

b. (U) Approve limited expansions of guidance issued by their own element, subject to the resolution of any concerns raised in accordance with Section D.1.c(2)(c);

c. (U) Ensure that appropriate DNI Representatives/Chiefs of Station and Chiefs of Mission are informed of new foreign disclosure or release guidance and significant and limited expansions of established foreign disclosure or release guidance under their cognizance;

d. (U) Maintain records of decisions to disclose or release intelligence to foreign entities under any of the above categories, in accordance with ICD 403; and

e. (U) Provide IC element policies to the DNI, as appropriate, consistent with Section E.1.c of this Directive.

F. (U) EFFECTIVE DATE: This Policy Guidance becomes effective on the date of signature.



 Director of National Intelligence



 Date