

APPENDIX A

DEFINITIONS

For the purposes of these procedures:

**Agencies within the Intelligence Community** are: (a) the CIA; (b) the National Security Agency; (c) the Defense Intelligence Agency; (d) the Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs; (e) the Bureau of Intelligence and Research of the Department of State; (f) the intelligence elements of the Army, Navy, Air Force, and Marine Corps, the FBI, the Department of the Treasury, and the Department of Energy; and (g) the staff elements of the Office of the DCI.

**Agent of a foreign power** means:

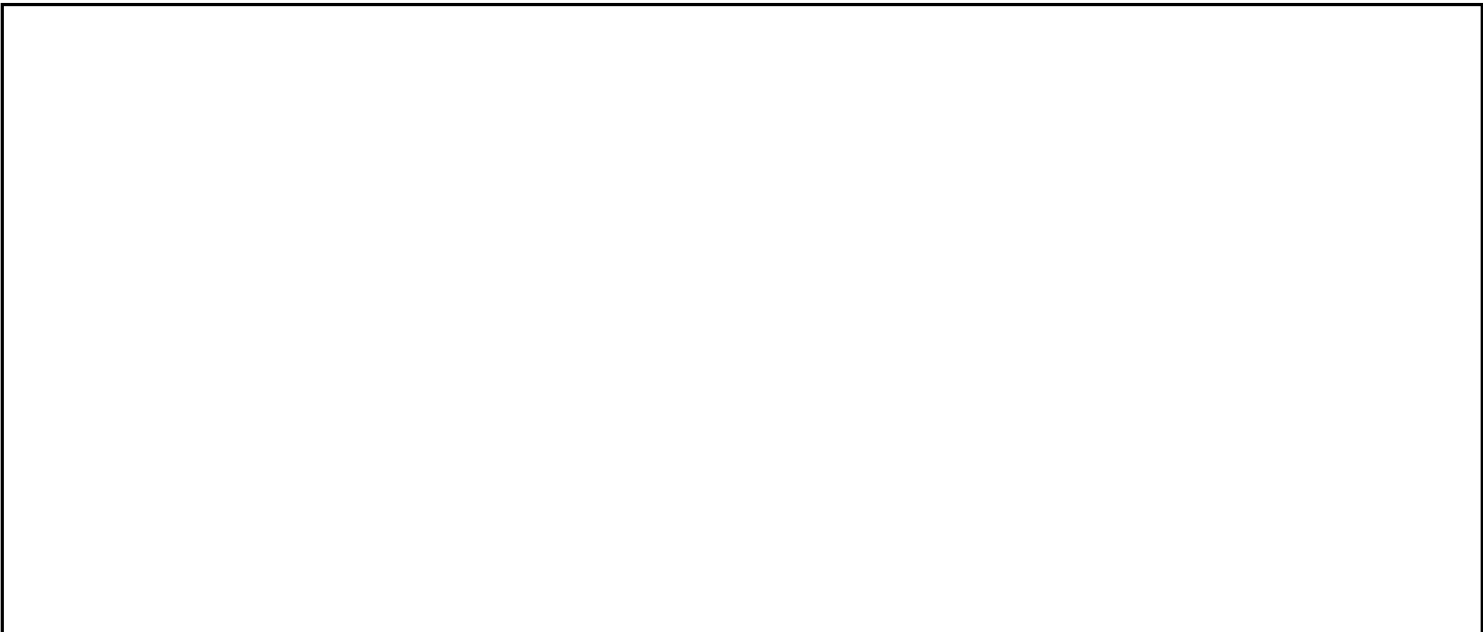
- a. A person who, for or on behalf of a foreign power, is engaged in clandestine intelligence activities (including clandestine activities intended to affect the political or governmental process), sabotage, or international terrorist activities, or who conspires with or knowingly aids or abets such a person in engaging in such activities;
- b. A person who is an officer or employee of a foreign power, including any individual whether in the United States or abroad who acts in an official capacity on behalf of a foreign power, is attached to a foreign diplomatic establishment or an establishment under the control of a foreign power, or is employed by a public international organization or organization established under an agreement to which the United States is a party;
- c. A corporation or other entity that is owned or controlled directly or indirectly by a foreign power;
- d. A person acting in collaboration with an intelligence or security service of a foreign power who has, or has had, access to information or material classified by the United States; or
- e. A person unlawfully acting for or pursuant to the direction of a foreign power, provided that the fact that a person's activities may benefit or further the aims of a foreign power, standing alone, is not sufficient to support a finding that a person is acting for or pursuant to the direction of a foreign power.

Central Intelligence Agency and CIA include the staff elements of the Office of the Director of Central Intelligence.

Consent means that (a) the subject or a participant in the activity has granted permission, in writing if possible or orally, within a specific time frame and context or (b) in the case of employees or visitors to government facilities, there is a visible posted notice on government property which clearly states that the place or object where the notice is posted is subject to a particular form of search or surveillance; (c) in the case of employees, the activity is undertaken in accordance with published rules or regulations; or (d) the subject of a lawful investigation has authorized a CIA employee to undertake that activity regardless of the subject's knowledge of the employee's affiliation. Consent to collect implies consent to retain or disseminate. Consent, unless the consenting party specifies otherwise, includes consent to use standard collection techniques.

Counterintelligence means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, and international terrorist activities or assassinations conducted by or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document, or communications security programs.

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Employee means a person employed by, assigned to, or acting for the organization.

Foreign power means (a) a foreign government or any component thereof, whether or not recognized by the United States; (b) a faction of a foreign nation or nations, not substantially composed of United States persons; (c) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments; (d) a

foreign-based group engaged in international terrorist activity and any other group engaged abroad in any such activity; or (e) a foreign-based political organization not substantially composed of United States persons.

**Foreign intelligence** means information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

**International terrorist activities** means any activity or activities which:

a. Involves killing, causing serious bodily harm, kidnapping, or violent destruction of property, or an attempt or credible threat to commit such acts; and

b. Appears intended to endanger a protectee of the Secret Service, the Department of State, or other Federal department or agency, or to further political, social, or economic goals by intimidating or coercing a civilian population or any segment thereof, influencing the policy of a government or international organization by intimidation or coercion, or obtaining widespread publicity for a group or its cause; and

c. Occurs totally outside the United States or transcends national boundaries in terms of the means by which it is accomplished, the civilian population, government, or international organization it appears intended to coerce or intimidate, or the locale in which its perpetrators operate or seek asylum.

**Least intrusive technique feasible** means that all techniques may be used only if less intrusive techniques cannot acquire intelligence of the nature, reliability and timeliness required. As a general rule, unregulated collection and standard collection techniques are less intrusive than special collection techniques.

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**Public Communications** means communications transmitted within frequency bands devoted to AM/FM, television and other broadcasts and communications intended for subsequent broadcast or public dissemination which are in fact broadcast or disseminated publicly; amateur and CB communications; police, fire, ambulance, navigational aid and distress, and other public service transmissions; and aircraft and maritime communications not connected with land-based telephone lines.

**Publicly available** means information that any member of the public could lawfully obtain by request or observation, or information, including public communications, that is lawfully accessible to any member of the public.

**Special activities** means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion or policies and do not include diplomatic activities or the collection and production of intelligence or related support functions.

**Unconsented physical search** means a search or seizure of a person or his property or possessions for purposes other than placing an electronic surveillance or electronic or mechanical monitoring device, without the consent of the person or, in the case of property or possessions, of another individual who has authority to consent to such a search. This term includes the opening of any mail sent by or intended to be received by a United States person.

**United States person** means

- a. A citizen of the United States;
- b. An alien known by CIA to be a permanent resident alien;
- c. An unincorporated association substantially composed of United States citizens or permanent resident aliens;

d. A corporation incorporated in the United States, unless such corporation is controlled by one or more foreign governments. A corporation or corporate subsidiary incorporated abroad, even if partially or wholly owned by a corporation incorporated in the United States, is not a United States person.

A person or organization outside the United States shall be presumed not to be a United States person unless information to the contrary is obtained.

**In United States postal channels means:**

a. Mail while in transit within, among, and between the United States (including mail of foreign origin which is passed by a foreign postal administration to the U.S. Postal Service for forwarding to a foreign postal administration under a postal treaty or convention and mail temporarily in the hands of the U.S. Customs Service or the Department of Agriculture); its territories and possessions; Army-Air Force (APO) and Navy (FPO) post offices; and mail for delivery to the United Nations, N.Y.; and

b. International mail enroute to an addressee in the United States or its possessions after passage to U.S. Postal Service from a foreign postal administration or enroute to an addressee abroad before passage to a foreign postal administration.

As a general rule, mail shall be considered in such postal channels until the moment it is manually delivered to the specific addressee in the United States named on the envelope or his authorized agent.

**Visibly present means** that a person at a location at which a special collection technique is directed is a person who is (a) a party to a conversation at that location, (b) a person, other than a party, who participates in a conversation at that location, or (c) a person in such close proximity to a conversation at that location so as to be reasonably assumed by the participants to be able to overhear the conversation at that location.

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