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AR 2-2B (U//AIUO) ANNEX B -- GUIDANCE FOR CIA ACTIVITIES WITHIN THE UNITED STATES (Formerly HR 7- 1ANNB)

OGC - AGENCY REGULATION SERIES 2 (INTELLIGENCE ACTIVITIES) PUBLISHED ON 23 DECEMBER 1987

Revision Summary

(U//AIUO) PLEASE BE ADVISED THAT AR 2-2B (formerly HR 7-1 Annex B) dated 9 August 1982, has been superceded by AR 2-2B, dated 20 July 2005. The 2005 version is not in the usual Agency regulatory format; it is formatted to retain the structure as approved" to maintain consistency with other, similar issuances.

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Regulation Summary

(U//AIUO) Annex B to AR 2-2 outlines the duties and responsibilities of CIA as well as limitation upon intelligence activities undertaken by the Agency within the United States.

I. (U) Authorities

(U) Executive Order 12333; the National Security Act of 1947; the CIA Act of 1949, and other applicable laws, regulations, and directives, as well as intelligence policies.

II. (U) Policy

I. (U) INTRODUCTION

A. Executive Order 12333 outlines the duties and responsibilities of CIA as well as limitations upon intelligence activities undertaken by the Agency. The Order reflects the requirements of the National Security Act of 1947, the CIA Act of 1949, and other laws, regulations, and directives, as well as intelligence policies. These revised procedures, which implement Sections 2.3, 2.4 and 2.9 of the new Order, were prepared by CIA, were approved by the Attorney General, and are issued by the Director of Central Intelligence. These procedures supersede all existing procedures addressing the same subject matter. However, employees must also comply with Agency regulations that reflect the requirements of the new Order and

Agency policies regulating employee conduct within the United States.

B. **PURPOSES**-These procedures are intended to:

1. Permit and encourage legitimate intelligence activities to the maximum extent possible so that an aggressive and effective intelligence effort may be carried out free of unnecessary restrictions;
2. Provide legal protection to employees who follow the procedures by providing authority for intelligence activities; and
3. Assure the American public and the intelligence oversight mechanisms that all CIA activities in the United States are lawful and related to legitimate intelligence objectives.

II. (U) **RESPONSIBILITIES**. CIA is responsible within the United States for:

- A. (U) Collecting, producing, and disseminating foreign intelligence and counterintelligence, including counterintelligence and significant foreign intelligence not otherwise obtainable. The collection of foreign intelligence not otherwise obtainable shall be coordinated with the FBI as required by the 2005 CIA-FBI Memorandum of Understanding (MOU);
- B. (U) Conducting counterintelligence activities, in coordination with the FBI as required by the 2005 CIA-FBI MOU;
- C. (U) Collecting, producing, and disseminating intelligence on foreign aspects of narcotics production and trafficking;
- D. (U) Conducting research, development (including testing), and procurement of technical systems and devices relating to authorized functions;
- E. (U) Protecting the security of its installations, activities, information, property, and employees by appropriate means;
- F. (U) Conducting Intelligence Community services of common concern as directed by the NSC;
- G. (U) Conducting special activities in support of national foreign policy objectives abroad approved by the President and consistent with applicable laws; and
- H. (U) Conducting administrative and technical support activities necessary to perform the functions described above.

III. (U) **AUTHORITIES**

All CIA activities within the United States must be related to the responsibilities identified above and must be authorized as outlined in these procedures.

(b)(1)
(b)(3) NatSecAct**IV. (U) GENERAL PRINCIPLES**

A. (U) ACTIVITIES COVERED. These procedures apply to CIA activities within the United States.

B. (U) INDIVIDUALS TO WHOSE ACTIVITIES THESE PROCEDURES APPLY. These procedures apply to the activities of all CIA employees, including individuals assigned to or acting for CIA, such as contractors and assets.

C. (U) LEAST INTRUSIVE TECHNIQUE FEASIBLE. A certain collection technique may be used only if a less intrusive technique cannot acquire intelligence of the nature, reliability, and timeliness required. As a rule, [redacted] are less intrusive than [redacted]

D. (U) FBI COORDINATION. Executive Order 12333 requires that CIA foreign intelligence collection and counterintelligence activities conducted within the United States be coordinated with the FBI as specified in these procedures, in addition to the internal approvals specified in these procedures or even when the internal approvals are not required. See the 2005 CIA-FBI MOU.

E. ~~(S//NF)~~ EMERGENCIES

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1. ~~(S//NF)~~ LIFE OR PHYSICAL SAFETY. Nothing in these procedures shall be construed to prohibit, where a person's life or physical safety is reasonably believed to be in imminent danger, the conduct of counterintelligence activities or the collection [redacted] [redacted] retention, or dissemination of information concerning any person that is relevant to the danger, or its prevention, reduction, or elimination, if the authority who must normally approve such activities is advised as soon as possible.

2. ~~(S//NF)~~ RISK OF INTELLIGENCE LOSS. Nothing is [sic] these procedures shall be construed to prohibit a CIA employee from [redacted] collection [redacted] if the time required to secure prior approval would cause failure or delay in obtaining significant intelligence, and an official who must normally approve such activities is advised as soon as possible. Approval by the most senior official possible should be obtained if time permits.

F. (U) ADMINISTRATION. Nothing in these procedures shall prohibit collection, retention, or dissemination of information concerning U.S. persons necessary for administrative purposes (including contracting, building maintenance, construction, fiscal matters, internal accounting procedures, disciplinary matters, and investigations of alleged crimes or improprieties by Agency employees) by Agency components authorized to perform such functions.

V. (U) COLLECTION OF INFORMATION IN THE UNITED STATES

A. (U) WHAT IS A U.S. PERSON? A U.S. person is a U.S. citizen, an alien known by CIA to be a permanent resident alien, an unincorporated association substantially composed of U.S. citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government. An alien in the United States may be presumed not to be a U.S. person unless specific indications to the contrary are obtained. (See Appendix A for complete definition.)

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(b)(3) NatSecAct

2. ~~(S//NF)~~ APPROVAL AUTHORITY. [redacted] requires no internal approvals under these procedures, but may require coordination with the FBI. See the 2005 CIA-FBI MOU for coordination requirements. (b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

(2) ~~(S//NF)~~ APPROVAL AUTHORITY

(a) ~~(S//NF)~~ Except as provided in (b) below, a Chief of Station, Chief of Installation, Chief of Base, or other senior official specified in Appendix B may approve the use, on a case-by-case basis, of [redacted] directed at a U.S. person if the facts and circumstances available to him at the time indicate that one or more of the types of information described in paragraph (1) above may be obtained. [redacted]

[redacted] Approving officials may consult with Headquarters prior to authorizing [redacted] and should advise Headquarters of any approvals to use such techniques. (b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

[redacted] notification would frustrate the collection or jeopardize or compromise a CIA activity or operation, and (iii) such collection is not undertaken for the purpose of acquiring information concerning the domestic activities of U.S. persons. [redacted]

[redacted] Domestic activities mean activities that occur within the United States and do not have a significant connection with a foreign power, person, or organization.

(c) ~~(S//NF)~~ Foreign intelligence and counterintelligence collection and other counterintelligence activities may require coordination with the FBI. See the 2005 CIA-FBI MOU for coordination requirements.

(d) ~~(S//NF)~~ Information acquired in the course of authorized collection activities that indicate possible violations of the federal criminal code must be handled in accordance with the crimes reporting procedures in AR 7-1.

(e) ~~(S//NF)~~ Individual approvals on a case by-case basis are not required for (i) personnel security investigations directed at current CIA employees, employees of CIA contractors, applicants for such employment, and other individuals who have been granted or who are being considered for security clearances or approvals and other persons with similar associations; or

(b)(1)
(b)(3) NatSecAct

b. ~~(S//NF)~~ NON-U.S. PERSONS.

D.

1. ~~(S//NF)~~ ELECTRONIC SURVEILLANCE. (telephone surveillance, microphone surveillance, signals intelligence). (See Appendix A for full definition.) CIA may not engage in electronic surveillance within the United States. However, it is permissible to:

a. ~~(S//NF)~~ Acquire a communication with the consent of one of the parties to the communication or one of the persons visibly present (see Appendix A for definition of "visibly present"). Such acquisition does not constitute electronic surveillance and requires no special approval;

b. ~~(S//NF)~~ Train personnel in the use of electronic communications equipment, test such equipment, and countermeasures to hostile electronic surveillance if conducted in accordance with Appendix E or F of these procedures.

c. ~~(S//NF)~~ Request that the FBI or any other authorized intelligence agency undertake electronic surveillance in the United States with the approval of the Attorney General and in accordance with the Foreign Intelligence Surveillance Act of 1978, provided that the Director, Central Intelligence Agency makes the request (1) certifying that such assistance is relevant to the responsibilities of the CIA, (2) describing the support required, and (3) explaining why the Bureau or other agency is being requested to furnish such assistance; or

d. ~~(S//NF)~~ Provide specialized equipment and technical knowledge to assist another department or agency in the conduct by that department or agency of lawful and authorized electronic surveillance in the United States. Expert personnel may be provided only with the

[redacted] personnel participate in the collection of raw information. Translation assistance, however, may be provided without General Counsel approval if CIA personnel do not participate in the collection or dissemination of raw information.

2. ~~(S//NF)~~ MONITORING. [redacted]

(b)(1)

(b)(3) NatSecAct

(see

Appendix A for complete definition). CIA may use a monitoring device within the United States under circumstances in which a warrant would not be required for law enforcement purposes if the CIA General Counsel concurs. If the General Counsel determines that a warrant would be required, such monitoring may be undertaken pursuant to the Foreign Intelligence Surveillance Act of 1978.

3. ~~(S//NF)~~ UNCONSENTED PHYSICAL SEARCHES. CIA may not conduct within the United States unconsented physical searches of real or personal property (including property entrusted to Agency employees or assets) except for physical searches of the personal property, lawfully in the CIA's possession, of a non-U.S. person. (Such searches require General Counsel concurrence; if he determines that a warrant would be required for law enforcement purposes, Attorney General approval is necessary.) In addition, it is permissible to:

a. ~~(S//NF)~~ Conduct a consented physical search within the United States (see Appendix A for definition of consent). No special approval required;

b. ~~(S//NF)~~ Request that the FBI undertake a physical search within the United States with the approval of the Attorney General, provided the Director, Central Intelligence Agency makes the request (1) certifying that such assistance is relevant to the mission of the CIA, (2) describing the support required, and (3) explaining why the FBI is being requested to furnish such assistance; or

c. ~~(S//NF)~~ Assist another department or agency in the conduct by that department or agency of a physical search within the United States under circumstances approved by the Director, Central Intelligence Agency with the concurrence of the General Counsel in consultation with the Department of Justice.

4. ~~(S//NF)~~ MAIL OPENING AND MAIL COVERS. The opening or mail within United States postal channels is prohibited. However, it is permissible to request that the FBI examine mail covers, if not for the sole purpose of collecting information concerning [redacted]

[redacted] within the United States in accordance with applicable ~~(b)(1)~~ statutes and regulations. (See approval authority for [redacted] (b)(3) NatSecAct

~~(S//NF)~~ Foreign intelligence collection and counterintelligence activities may require coordination with the FBI. See the 2005 CIA-FBI MOU for coordination requirements.

VI. ~~(S//NF)~~ PROCESSING OF U.S. PERSON INFORMATION

A. ~~(S//NF)~~ RETENTION AND DISSEMINATION OF INFORMATION NOT DERIVED FROM

[Redacted]

(b)(1)
(b)(3) NatSecAct

1. ~~(S//NF)~~ RETENTION. Information about a U.S. person that is not derived from [Redacted] may be retained if it relates to the responsibilities listed in Part II above and if it falls within any one of the following criteria:

- a. (U) The information is publicly available, consensual, or identifying information. (see Part V.B.I. above)
- b. ~~(S//NF)~~ The information is foreign intelligence or counterintelligence; information concerning international terrorist activities; information concerning foreign aspects of international narcotics activities; information needed to protect the safety of persons or organizations; information needed to protect foreign intelligence or counterintelligence sources and methods from unauthorized disclosure; information concerning personnel, physical, or communications security; information acquired by overhead reconnaissance; information that may indicate involvement in activities that may violate federal, state, local, or foreign laws; or information necessary for administrative purposes.

[Redacted]

(b)(1)
(b)(3) NatSecAct

- d. ~~(S//NF)~~ The information is retained in such a manner that it cannot be retrieved by reference to the person's name or other identifying data.
- e. ~~(S//NF)~~ The information is processed to delete the identity of the U.S. person and all personally identifiable information. In such cases a generic term which does not identify the U.S. person in the context of the information, such as "businessman," may be substituted.
- f. ~~(S//NF)~~ The information is (1) necessary for the purposes of oversight, accountability, or redress, (2) relevant to an administrative, civil, or criminal proceeding or investigation, (3) required by law to be retained, or (4) necessary to be retained for the purpose of determining that the requirements of these procedures are satisfied.

[Redacted]

(b)(1)
(b)(3) NatSecAct

- h. ~~(S//NF)~~ Such retention is necessary to a lawful activity of the United States and the General Counsel, in consultation with the Department of Justice, determines that such retention is lawful.
- i. ~~(S//NF)~~ Such retention is necessary for a reasonable period to determine whether the information falls within any or more of the categories above.

2. ~~(S//NF)~~ DISSEMINATION. Information about a U.S. person may be disseminated within CIA to employees who need to know the information in the course of their official duties and to

each appropriate agency within the Intelligence Community for purposes of allowing the agency to determine whether the information is relevant to its responsibilities and can be retained by it. In addition, such information which may be retained about a U.S. person in accordance with paragraph 1 above may be disseminated:

- a. ~~(S//NF)~~ To the President, the Vice President, the Director of National Intelligence, the National Security Council, and Chiefs of Mission;
- b. ~~(S//NF)~~ To executive agencies and military departments which need the information to perform their lawful functions;
- c. ~~(S//NF)~~ To appropriate law enforcement agencies having jurisdiction or responsibility for the investigation or prosecution of activities to which the information relates;
- d. ~~(S//NF)~~ To entities of cooperating foreign governments (including information obtained from lawful agency records checks for dissemination to these entities for any lawful purpose such as determining suitability for employment and immigration), provided they agree to such further restrictions on dissemination as may be necessary;
- e. ~~(S//NF)~~ To members of Congress who express a need or interest in obtaining a biographic report, when the subject of the report is a non-U.S. person and the information concerning the activities of a U.S. person contained in the report is related to its subject;
- f. ~~(S//NF)~~ To the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence when the information is relevant to their oversight responsibilities;
- g. (b)(1)
(b)(3) NatSecAct
- h. ~~(S//NF)~~ To governmental entities if the information was not used, knowingly retained, or processed within CIA, such as when the Agency acts as a mere conduit for information intended solely for other entities;
- i. ~~(S//NF)~~ To other recipients, if the subject of the information provides prior consent in writing; or
- j. ~~(S//NF)~~ To other recipients, if such dissemination is necessary to a lawful activity of the United States, and the General Counsel, in consultation with the Department of Justice, determines that such dissemination is lawful.

3. ~~(S//NF)~~ The identity of a U.S. person may be retained and disseminated along with information concerning him if the information qualifies for retention or dissemination under paragraph 1 or 2 above. Such an identity may be disseminated outside the Intelligence Community only if it is necessary or if it is reasonably believed that it may become necessary to understand or assess such information.

~~(S//NF)~~ RETENTION AND DISSEMINATION OF INFORMATION DERIVED FROM

Information about a U.S. person

(b)(1)
(b)(3) NatSecAct

may be retained or disseminated if it qualifies under Appendix D. This

Appendix applies to

(b)(1)
(b)(3) NatSecAct

[redacted] (See Appendix A for complete definition.) [redacted]

[redacted] Information about a U.S. person derived from [redacted] should be carefully segregated, and special care should be taken that such information is processed in strict accordance with Part VI.A. above as well as [redacted] procedures approved by the Attorney General.

(b)(1)

(b)(3) NatSecAct

VII. ~~(S//NF)~~ CIA COUNTERINTELLIGENCE ACTIVITIES

A. ~~(S//NF)~~ CIA may provide technical and analytical assistance to the FBI, NSA, or other agency within the Intelligence Community, including the evaluation, analysis, or other processing of information collected by the Bureau or agency, if:

1. ~~(S//NF)~~ CIA personnel do not participate in the collection of raw information; and
2. ~~(S//NF)~~ The CIA General Counsel determines that the particular assistance or a category of assistance is consistent with all applicable law, including the provisions of the National Security Act of 1947, as amended, except that no General Counsel determination is needed to provide translation assistance if participating employees do not disseminate raw information from such translations.

B. ~~(S//NF)~~ CIA may conduct other counterintelligence activities if:

1. ~~(S//NF)~~ The CIA General Counsel determines that such conduct by CIA is consistent with all applicable law, including the National Security Act of 1947, as amended;
2. ~~(S//NF)~~ Such activities are approved by the Director, Central Intelligence Agency or Deputy Director, Central Intelligence Agency, and, to the extent required by FBI procedures, approved by the Attorney General; and
3. ~~(S//NF)~~ Such activities are coordinated with the FBI in accordance with the 2005 CIA-FBI MOU.

C. ~~(S//NF)~~ All requests for CIA assistance from the FBI or intelligence elements of the military services involving activities covered under A. or B. above shall be made by the Director, FBI, or by senior FBI officials designated in writing by him, and should contain the information specified in Appendix G.

VIII. (U) UNDISCLOSED PARTICIPATION IN ORGANIZATIONS WITHIN THE UNITED STATES

A. ~~(S//NF)~~ PERMITTED PARTICIPATION

1. ~~(S//NF)~~ A staff employee or an asset may join or otherwise participate in any organization in the United States only in the following circumstances:
 - a. ~~(S//NF)~~ If acting in a private capacity for a personal purpose and CIA does not pay dues, membership or entrance fees. APPROVAL AUTHORITY: No special approval required.

(b)(1)
(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

B. ~~(S//NF)~~ LIMITATIONS

1. ~~(S//NF)~~ Use or placement of a staff employee or an asset in an organization in the United States to spot or assess U.S. citizens is prohibited.

(b)(1)
(b)(3) NatSecAct

3. ~~(S//NF)~~ Collection within the United States of significant foreign intelligence not otherwise obtainable may not be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons.
4. ~~(S//NF)~~ A person is employed by an organization if he or she is employed by, assigned to, or acts for the organization.

C. (U) APPROVAL PROCEDURES FOR PERMITTED ACTIVITIES

1. (U) Before approving an undisclosed participation the approving CIA official must determine that such participation is essential to achieve one or more of the lawful purposes

specified in Part VIII.A. above. All determinations made under these procedures shall specify the duration of the participation, not to exceed three years, unless reapproved in accordance with these procedures.

2. (U) All requests to the Director, Central Intelligence Agency, Deputy Director, Central Intelligence Agency or DDO for approval of an undisclosed participation shall be forwarded through the General Counsel. All other requests will be subject to, but not require, the review of the General Counsel.

IX. (U) ADMINISTRATION AND EFFECTIVE DATE

A. (U) A person who is officially acting in the absence of an employee may exercise the powers of that employee.

B. (U) Authority granted to an employee, other than the General Counsel, may be exercised by any person who is senior in the Agency's channel of authority.

C. (U) These procedures are not intended to, and do not, create any 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.

D. (U) These procedures shall become effective immediately upon signature by the Director, Central Intelligence Agency, the Attorney General, and the Director of National Intelligence.

APPROVED

I approve the foregoing procedures in accordance with Executive Order 12333, as amended. In my opinion, intelligence activities conducted pursuant to and in accordance with these procedures are lawful.

[Signed] Alberto Gonzales, Attorney General, on July 20, 2005

I approve the foregoing procedures in accordance with Executive Order 12333, as amended.

[Signed] John Negroponte, Director of National Intelligence, on June 24, 2005

I approve and establish the foregoing procedures in accordance with Executive Order 12333, as amended.

[Signed] Porter Goss, Director, Central Intelligence Agency, on June 21, 2005

III. (U) Responsibilities

(U) [This provision is part of the ARGO template and is NOT part of the approved policy; See Section II, above.]

(b)(3) NatSecAct