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# Legal Briefing Slides for NCS courses re: USPs and Electronic collection

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#### Relevant Docs You Should Know

- U.S. Constitution esp. 4<sup>th</sup> A. (unreas. "search & seizure"), 5<sup>th</sup> & 14<sup>th</sup> (due process, potential crimes) US Constitution Follows a USP overseas to some extent
- National Security Act of 1947 & CIA Act of 1949 (as amended) - "Title 50" in sum, FI/CI and CA authorities
- Executive Order 12333, as amended. Primarily <u>USP issues</u>

Presidential directive, & CIA's AG-approved implementation of EO 12333 is contained in ...

• A	R 2-2 and Annexes (formerly HR 7-1) - USP issues	(b)(3) CIAAct
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## U.S. Persons—Who/what is a USP?

#### E.O. 12333, AR 2-2, App. C-definition

Who/what is considered to be a USP?

- "US citizen;
- an alien known by the intelligence element concerned to be a PRA;
- an unincorporated association substantially composed of US citizens or PRA's;
- a corporation incorporated inside the U.S. except for a corporation directed and controlled by a foreign government or governments
- USP Presumptions:

Outside US = presumed not a USP;

Inside US = presumed is USP, unless facts indicate otherwise.

Bottom line: USP involvement = add your component LGL for coord.

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#### Intelligence Collection: Retention/Dissemination

#### Retention:

 Generally speaking, information that is lawfully collected may be retained, so long as the information constitutes FI or CI

#### Dissemination:

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 Generally speaking, information that is lawfully collected and retained may be disseminated. However, some additional restrictions apply to the dissemination of <u>identifying U.S.</u> <u>person information</u> ('necessary to understand and assess" depends on the recipient and their authority, e.g., FBI, HPSCI). Note non-USG/"other" dissemination restrictions

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## Relevant Legal Docs

AUTHORITIES: U.S. Constitution

- National Security Act of 1947 & CIA Act of 1949 (as amended) - "Title 50" FI/CI and CA authorities
- Executive Order 12333, AR 2-2, USPs

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#### Limits?

- FI/CI, CA
- CIA not LEA
- Neutral, nonpolicymaking organization
- Cannot collect solely on USP domestic activities
  - Legal Issues Field Reference Guide hopefully soon!

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#### U.S. Persons—Who/what is a USP?

E.O. 12333, AR 2-2, App. C-definition

- US citizen;
- an alien known by the intelligence element concerned to be a PRA; an unincorporated association substantially composed of US citizens or PRA's;
- a corporation incorporated inside the U.S. except for a corporation directed and controlled by a foreign government or governments
- USP Presumptions:

Outside US = presumed <u>not</u> a USP; <u>Inside</u> US = presumed <u>is</u> USP USP involvement = coord with LGL

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## Targeting USPs--Collecting USP information

- Collection techniques consider the <u>level of intrusiveness</u>—the more intrusive the technique, the more <u>senior</u> approval required, especially for USPs
- Must use least intrusive technique available

•	Cannot ask others to do what we cannot do
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 Need a FI/CI/CA reason for collecting USP info for ANY collection (no collecting solely on USPs domestic activities)

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## Intelligence Collection: Retention/Dissemination

- · Retention:
  - In general, if you can collect it you can retain it if FI or CI value
- Dissemination:
  - In general, if lawfully collected and retained, it may be disseminated--however, some additional restrictions for dissemination of <u>identifying U.S.</u> person information.

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### Minimization of USP identifying info

- If USP info had FI value, can usually retain but minimize the USP identifying information
- Dissemination of USP identifying info (FI value)

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	understand and	assess the information

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#### **OPS LAW-ISSUE SPOTTING**

- USPs (includin<sup>(b)(1)</sup><sub>(3) NatSecAct</sub> collection, use, targeting, dissem)
- Authorities and Funding (b)(1) (b)(3) NatSecAct
- Deconfliction w/ other USG agencies, DI, OSC
- Crimes Reporting, Congressional Notification

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