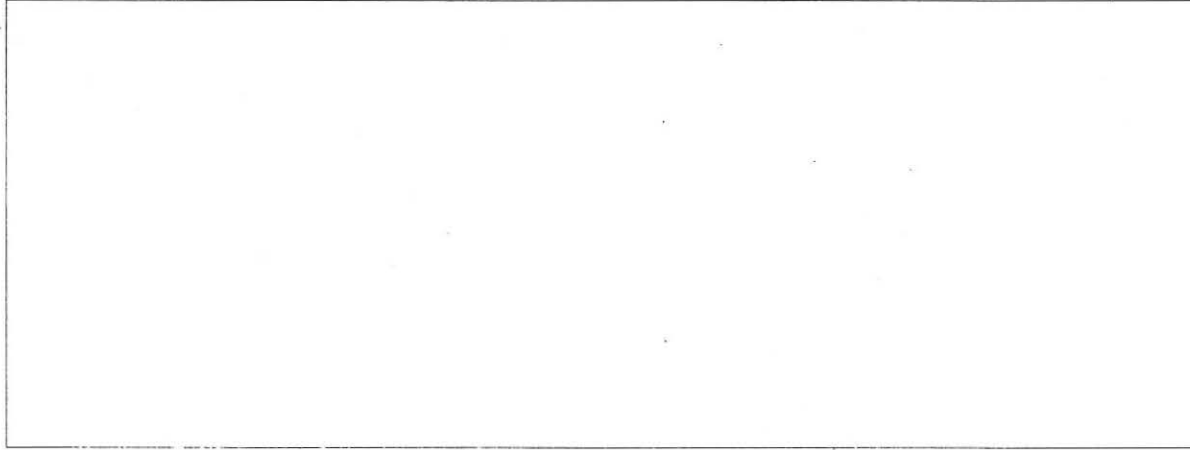


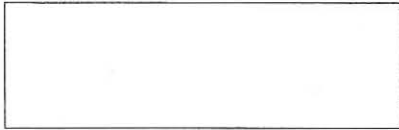
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# Legal Briefing Slides for NCS courses re: USPs and Electronic collection



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(b)(3) NatSecAct

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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 USP issues

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

- AR 2-2 and Annexes (formerly HR 7-1) - USP issues (b)(3) CIAAct
- [Redacted]
- [Redacted]

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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

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- Which collection techniques can you as COS/ACOS **not** **approve**?

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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:
  - Generally speaking, information that is lawfully collected and retained may be disseminated. However, some additional restrictions apply to the dissemination of identifying U.S. person information (“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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Collection

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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**

(b)(3) CIAAct

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 not a USP;
  - Inside US = presumed is USP
  - USP involvement = coord with LGL

(b)(3) NatSecAct

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## Targeting USPs--Collecting USP information

- Collection techniques consider the level of intrusiveness—the more intrusive the technique, the more senior 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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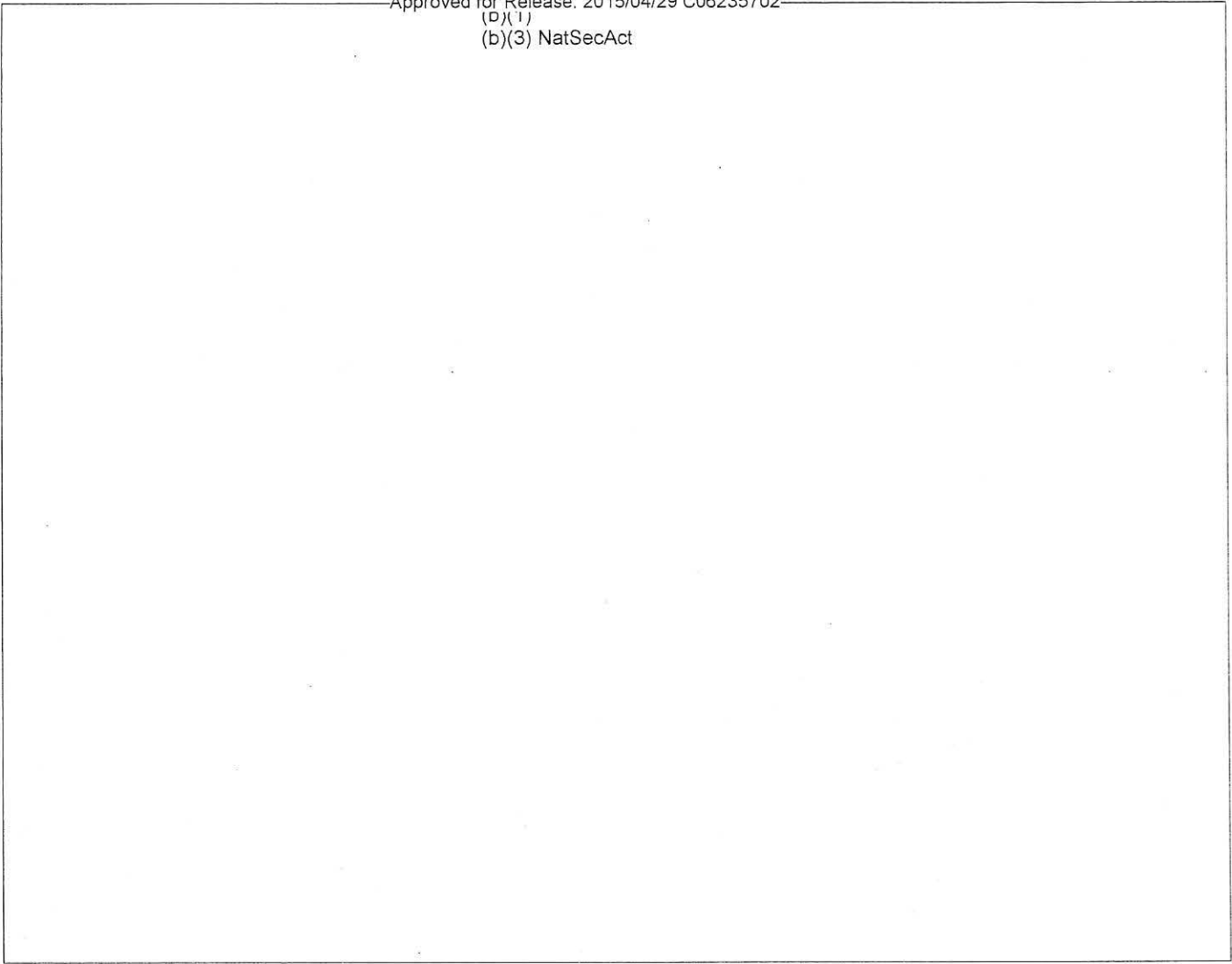
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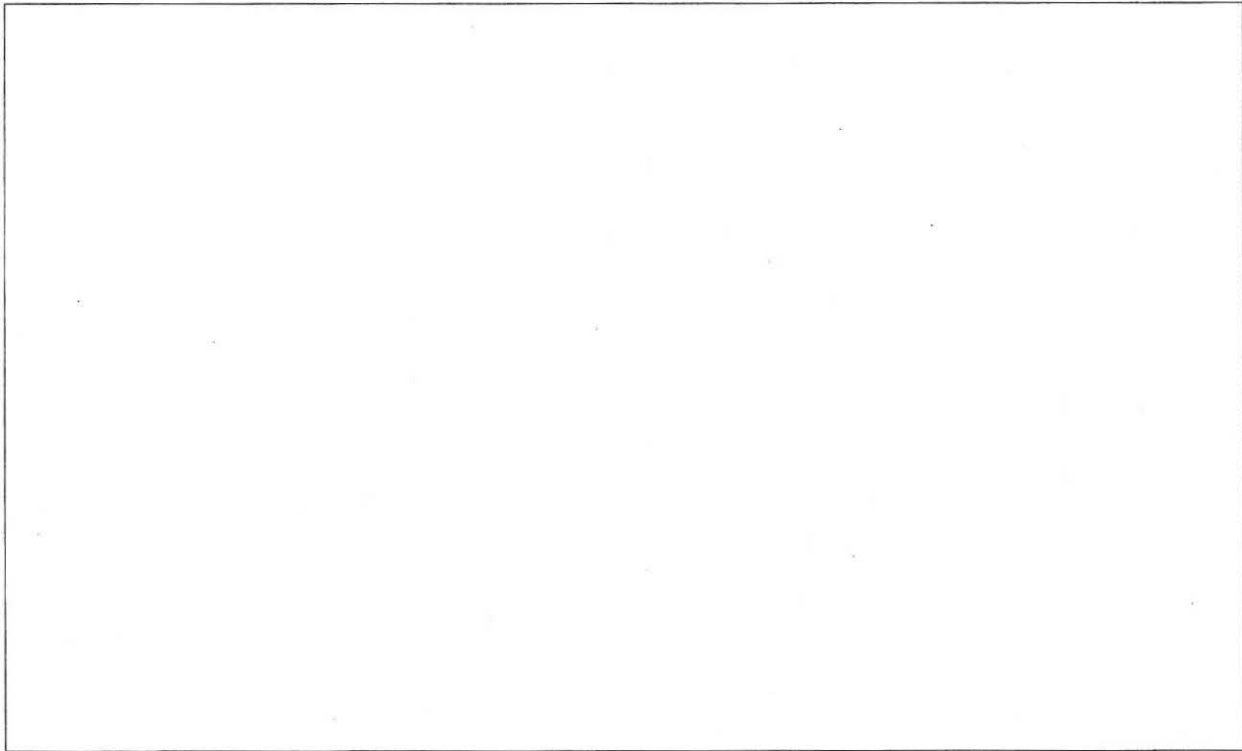
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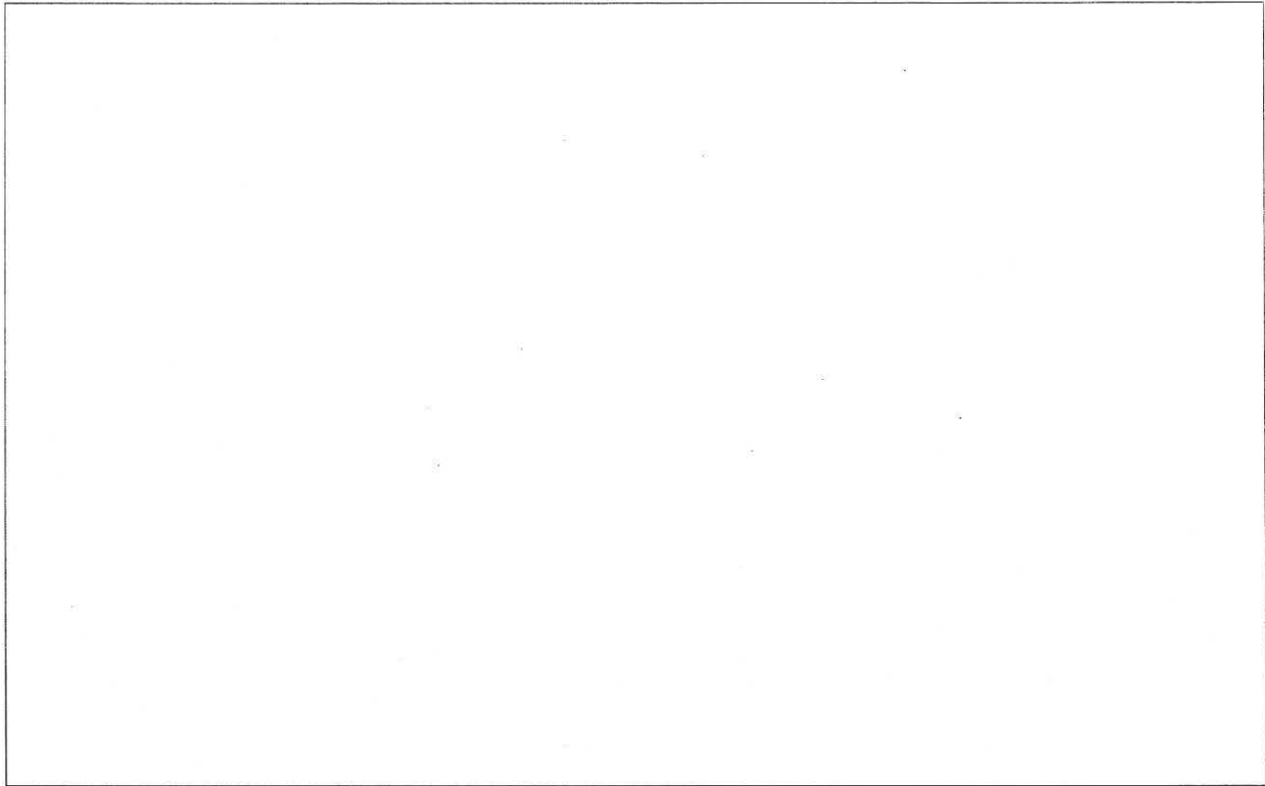


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## Intelligence Collection: Retention/Dissemination

- 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 identifying U.S. person information.

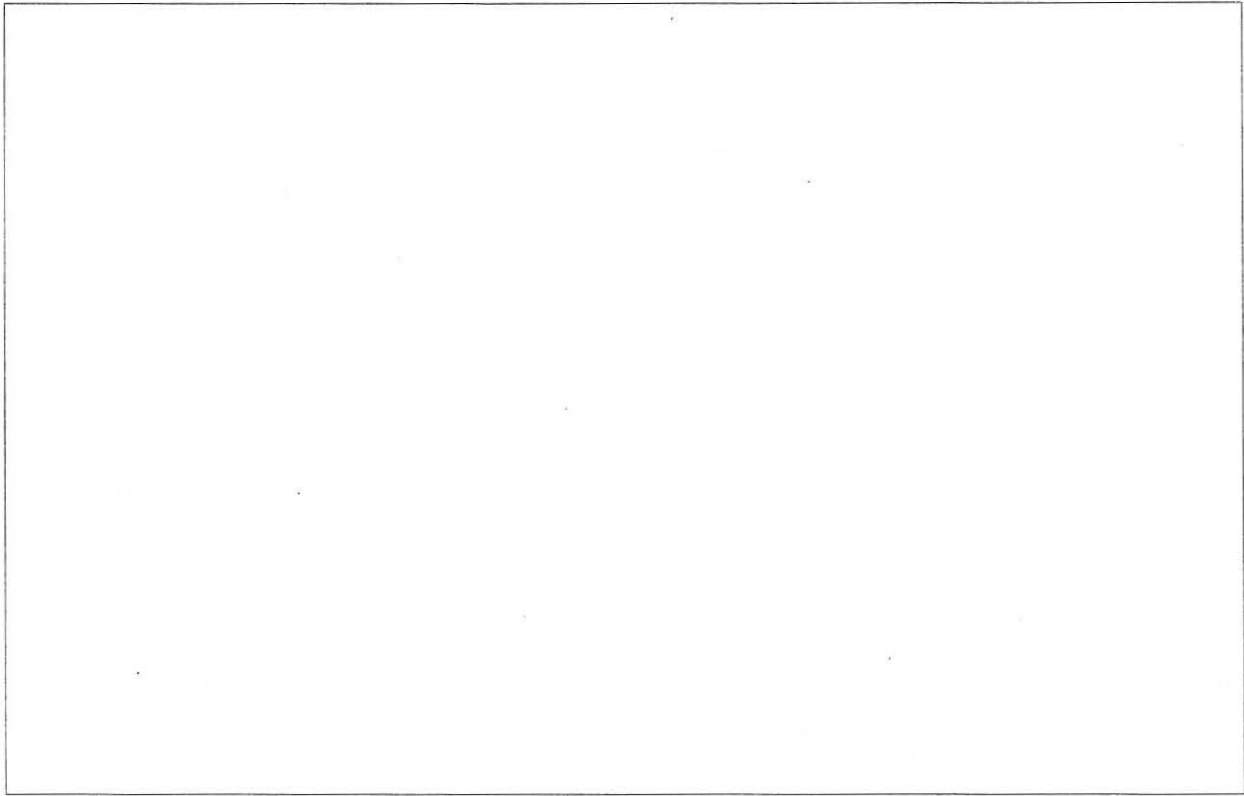
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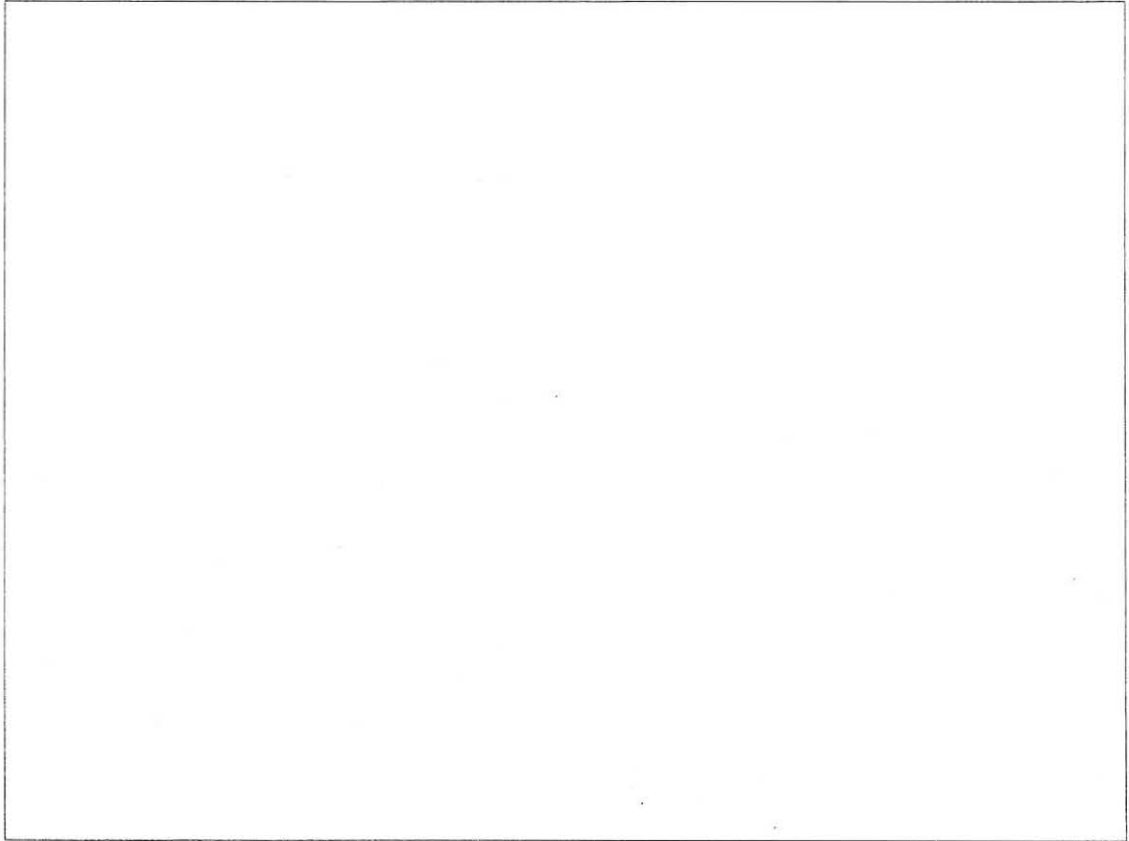


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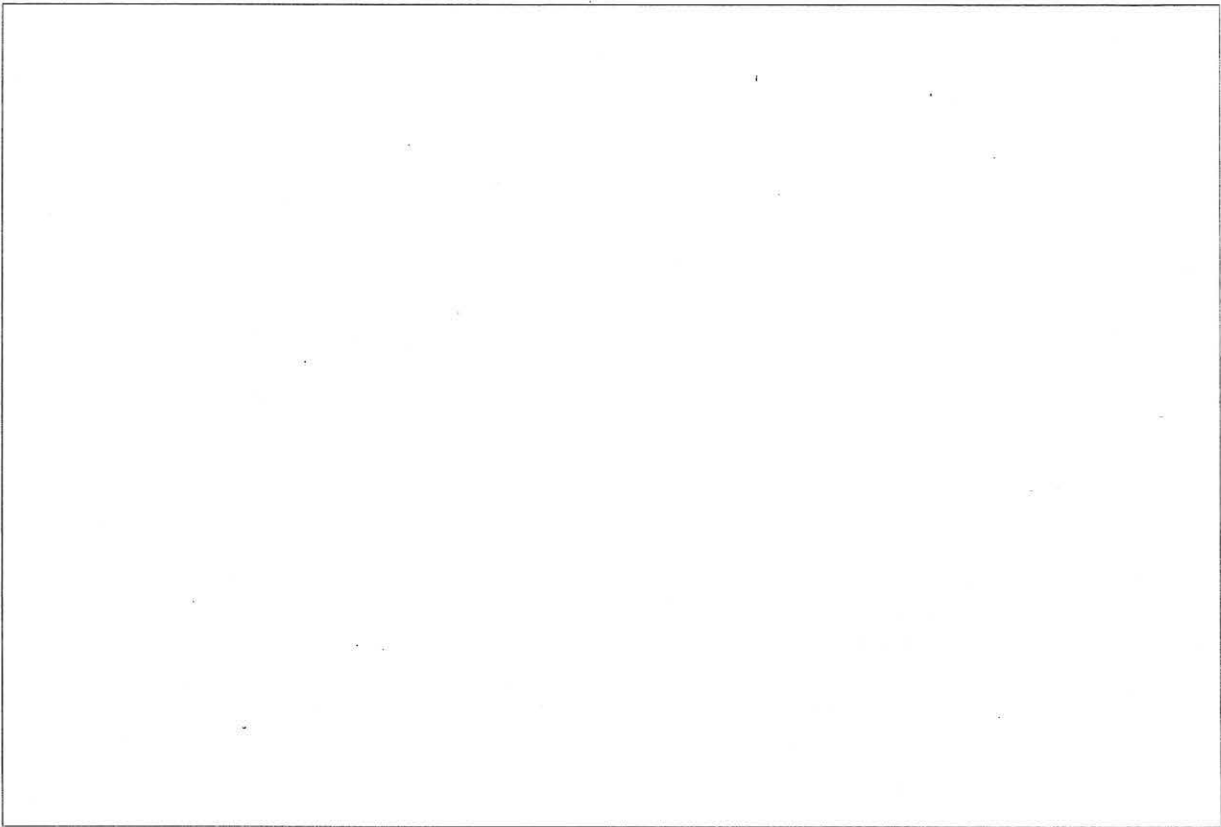


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## Minimization of USP identifying info

- 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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(b)(3) NatSecAct can do if necessary to understand and assess the information

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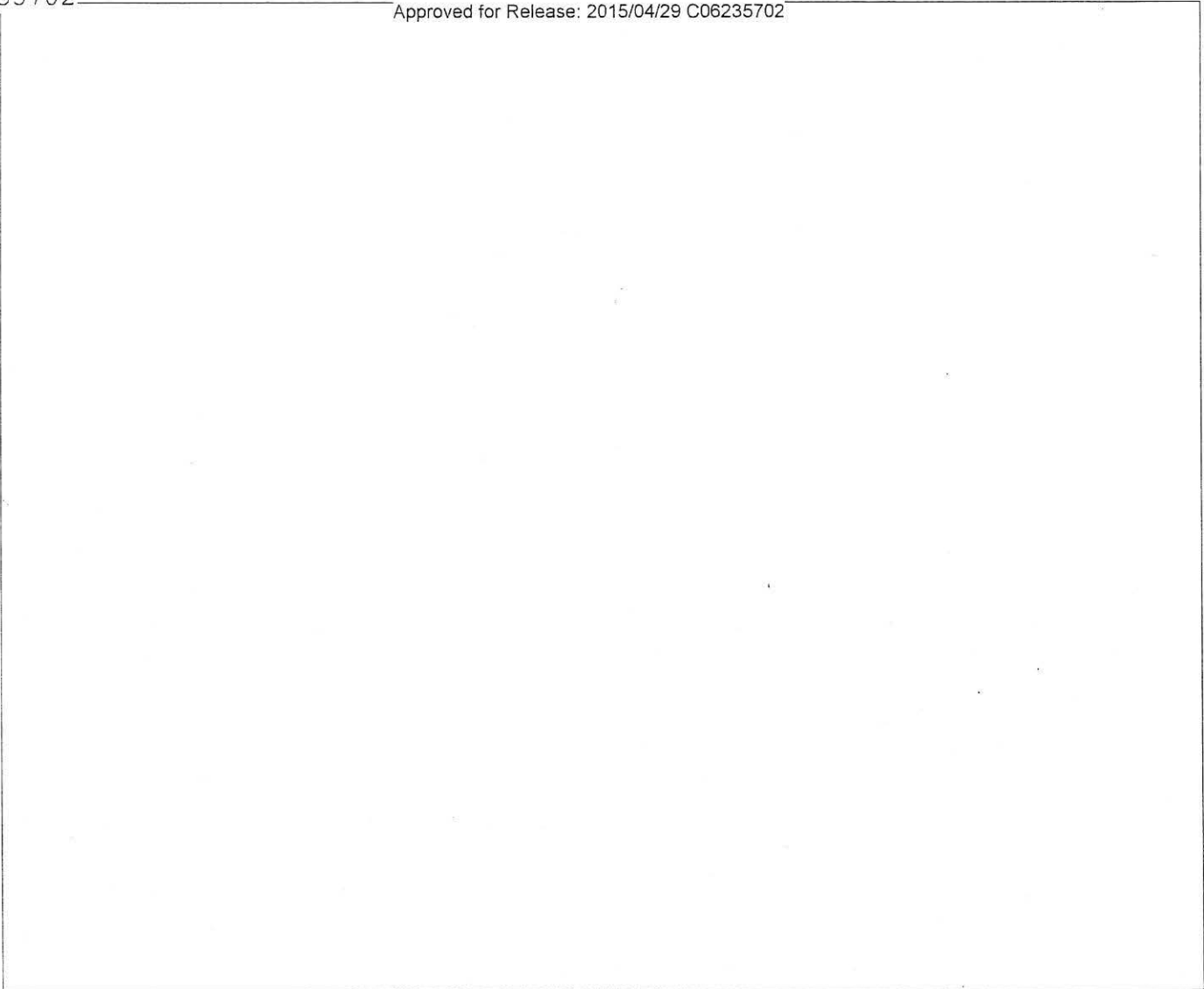
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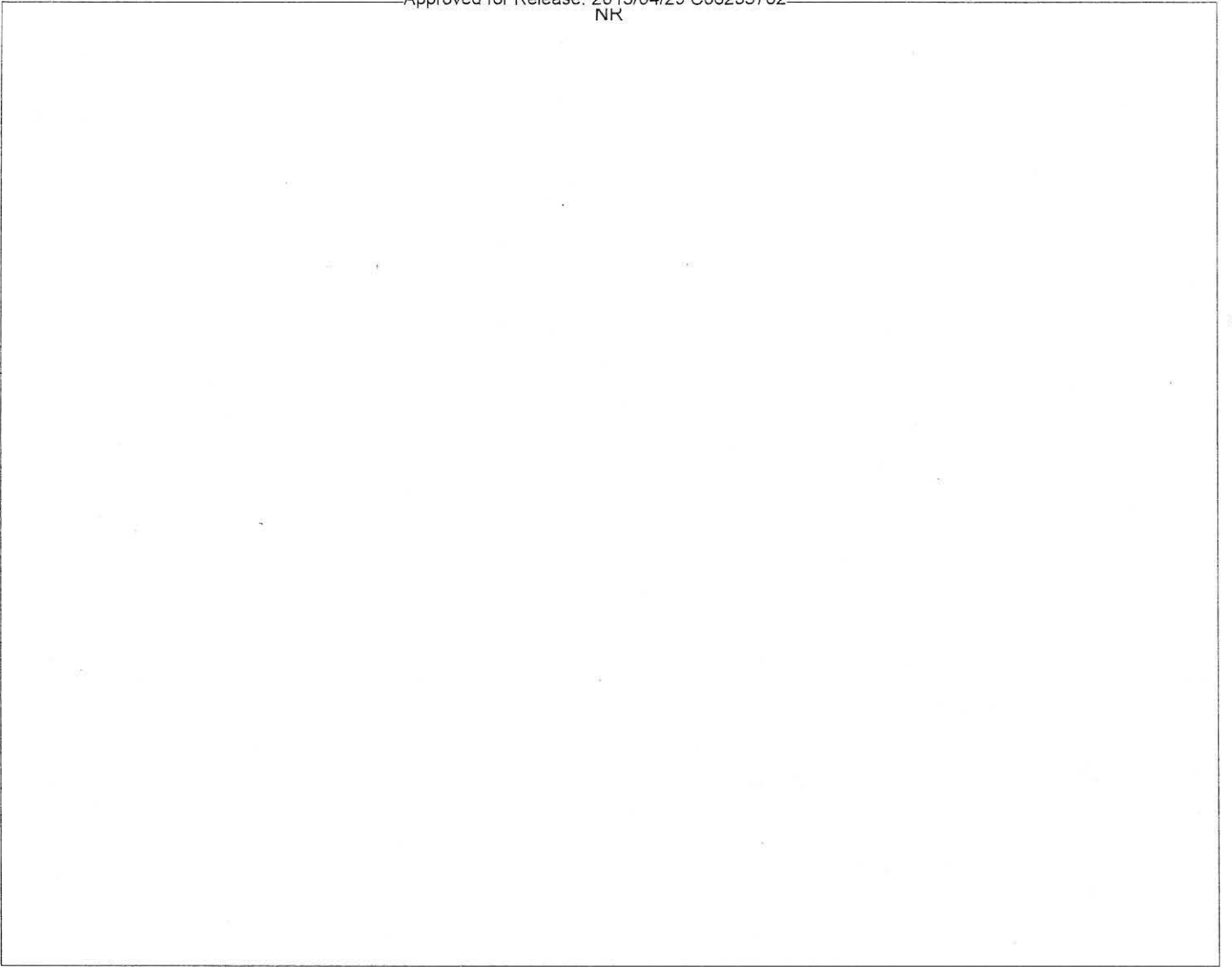
## OPS LAW-ISSUE SPOTTING

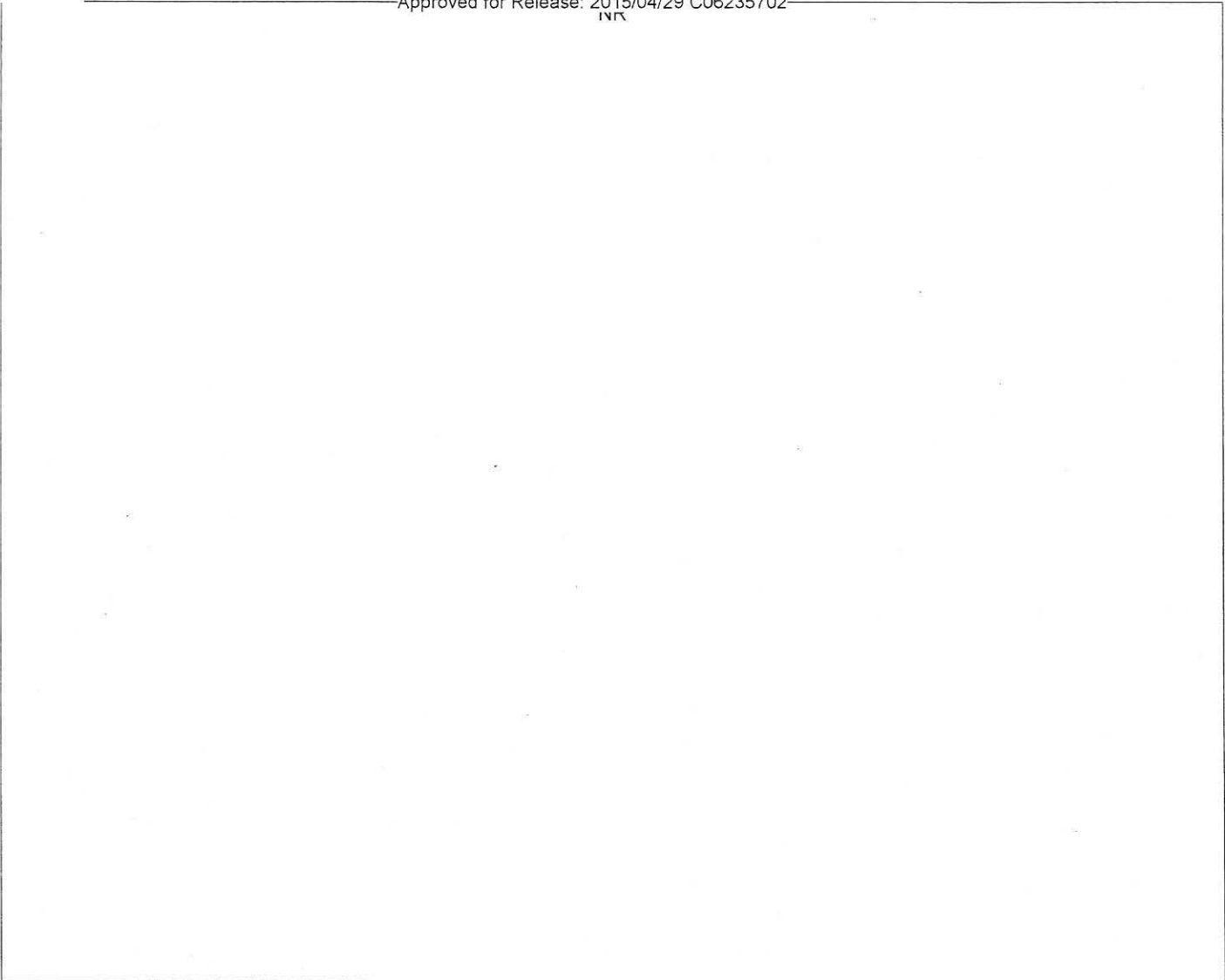
- USPs (including (b)(1) (b)(3) NatSecAct [ ] collection, use, targeting, dissemination)
- Authorities and Funding (b)(1) (b)(3) NatSecAct [ ]
- Deconfliction w/ other USG agencies, DI, OSC
- Crimes Reporting, Congressional Notification

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