

Office of the Director of National Intelligence

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threat; to assist in coordination of terrorist threat awareness, assessment, analysis, or response; or to assist the recipient in performing authorized responsibilities relating to terrorism or counterterrorism.

(s) A record from a system of records maintained by the ODNI may be disclosed as a routine use for the purpose of conducting or supporting authorized counterintelligence activities as defined by section 401a(3) of the National Security Act of 1947, as amended, to elements of the Intelligence Community, as defined by section 401a(4) of the National Security Act of 1947, as amended; to the head of any Federal agency or department; to selected counterintelligence officers within the Federal government.

(t) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Federal, state, local, tribal, territorial, foreign, or multinational government agency or entity, or to other authorized entities or individuals, but only if such disclosure is undertaken in furtherance of responsibilities conferred by, and in a manner consistent with, the National Security Act of 1947, as amended; the Counterintelligence Enhancement Act of 2002, as amended; Executive Order 12333 or any successor order together with its implementing procedures approved by the Attorney General; and other provisions of law, Executive Order or directive relating to national intelligence or otherwise applicable to the ODNI. This routine use is not intended to supplant the other routine uses published by the ODNI.

PART 1702—PROCEDURES GOVERNING THE ACCEPTANCE OF SERVICE OF PROCESS

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AUTHORITY: The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004); National Security Act of 1947, as amended, 50 U.S.C. § 401 *et seq.*; Executive Order 12333, as amended.

SOURCE: 74 FR 11479, Mar. 18, 2009, unless otherwise noted.

§ 1702.1 Scope and purpose.

This part sets forth the ODNI policy concerning service of process upon the ODNI and ODNI employees in their official, individual or combined official and individual capacities. This part is intended to ensure the orderly execution of ODNI affairs and is not intended to impede the legal process.

§ 1702.2 Definitions.

For purposes of this part the following terms have the following meanings:

DNI. The Director of National Intelligence.

General Counsel. The ODNI's General Counsel, Acting General Counsel or Deputy General Counsel.

ODNI. The Office of the Director of National Intelligence and all of its components, including, but not limited to, the National Counterintelligence Executive, the National Counterterrorism Center, the National Counterproliferation Center, the Program Manager for the Information Sharing Environment, and all national intelligence centers and program managers the DNI may establish.

ODNI Employee. Any current or former employee, contractor, independent contractor, assignee or detailee to the ODNI.

OGC. The Office of the General Counsel of the ODNI.

Process. A summons, complaint, subpoena or other document properly issued by or under the authority of, a federal, state, local or other government entity of competent jurisdiction.

§ 1702.3 Procedures governing acceptance of service of process.

(a) Service of process upon the ODNI or an ODNI employee in the employee's official capacity.

(1) Personal service. Unless otherwise expressly authorized by the General Counsel, personal service of process upon the ODNI or an ODNI employee in the employee's official capacity, may be accepted only by an OGC attorney

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at ODNI Headquarters. The OGC attorney shall write or stamp “Service Accepted In Official Capacity Only” on the return of service form.

(2) Mail service. Where service of process by registered or certified mail is authorized by law, only an OGC attorney may accept such service of process upon the ODNI or an ODNI employee in the employee’s official capacity, unless otherwise expressly authorized by the General Counsel. The OGC attorney shall write or stamp, “Service Accepted In Official Capacity Only,” on the waiver of personal service form. Service of process by mail must be addressed to the Office of the Director of National Intelligence, Office of General Counsel, Washington, DC 20511, and the envelope must be conspicuously marked “Service of Process.”

(b) Service of process upon an ODNI employee solely in the employee’s individual capacity.

(1) *Generally.* ODNI employees will not be required to accept service of process in their purely individual capacity on ODNI facilities or premises.

(2) *Personal Service.* Subject to the sole discretion of the General Counsel, process servers generally will not be allowed to enter ODNI facilities or premises for the purpose of serving process upon an ODNI employee solely in the employee’s individual capacity. Except for the DNI, the Principal Deputy Director of National Intelligence, and the Director of the Intelligence Staff, the OGC is not authorized to accept service of process on behalf of any ODNI employee in the employee’s individual capacity.

(3) *Mail Service.* Unless otherwise expressly authorized by the General Counsel, ODNI employees are not authorized to accept or forward mailed service of process directed to another ODNI employee in that employee’s individual capacity. Any such process will be returned to the sender via appropriate postal channels.

(c) Service of Process Upon an ODNI employee in a combined official and individual capacity. Unless otherwise expressly authorized by the General Counsel, service of process, in person or by mail, upon an ODNI employee in the employee’s combined official and individual capacity, may be accepted only

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for the ODNI employee in the employee’s official capacity by an OGC attorney at ODNI Headquarters. The OGC attorney shall write or stamp, “Service Accepted In Official Capacity Only,” on the return of service form.

(d) Acceptance of service of process shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue or any other defense in law or equity available under the laws or rules applicable to the service of process.

§ 1702.4 Notification to Office of General Counsel.

An ODNI employee who receives or has reason to expect to receive, service of process in an official, individual or combined individual and official capacity in a matter that may involve testimony or the furnishing of documents that could reasonably be expected to involve ODNI interests, shall promptly notify the OGC ((703) 275–2527) prior to responding to the service in any manner, and if possible, before accepting service.

§ 1702.5 Interpretation.

Any questions concerning interpretation of this regulation shall be referred to the Office of General Counsel for resolution.

PART 1703—PRODUCTION OF ODNI INFORMATION OR MATERIAL IN PROCEEDINGS BEFORE FEDERAL, STATE, LOCAL OR OTHER GOVERNMENT ENTITY OF COMPETENT JURISDICTION

Sec.

1703.1 Scope and purpose.

1703.2 Definitions.

1703.3 General.

1703.4 Procedure for production.

1703.5 Interpretation.

AUTHORITY: The Intelligence Reform and Terrorism Prevention Act of 2004, Public Law No. 108–458, 118 Stat. 3638 (2004); National Security Act of 1947, as amended, 50 U.S.C. 401 *et seq.*; Executive Order 12333, as amended; and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

SOURCE: 74 FR 11480, Mar. 18, 2009, unless otherwise noted.