

E.O. 12333 OF US INTELLIGENCE ACTIVITIES
as it applies to the NRO

I Background

E.O. 12333 was issued on 4 Dec 1981 by President Reagan. It replaced E.O. 12036 which was issued during the Carter Administration. That E.O. replaced E.O. 11905 which was issued during the Ford Administration in response to the investigations of the US Intelligence Community in the mid 1970s.

This set of E.O.'s, beginning with E.O. 11905, is significantly different from previous directives or laws regarding intelligence activities in that they focus to a large extent, less so in each subsequent E.O., on the prohibitions of certain intelligence practices, besides the normal assigning of roles and responsibilities to organizations and designated officials. This emphasis is based on the reaction to the investigations which revealed, among other things, mail opening and some spying on US citizens.

The mistakes of some in the Intelligence Community were to result in the investigation and reorganization of all of the Intelligence Community [whether they needed reorganization or not.]

II Relevant Sections of E.O. 12333 applicable to or specifying the NRO

All of E.O. 12333 applies to the NRO, of course. Those that are of direct relevance or specify the NRO are:

Part 1

" Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

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1.3 -- National Foreign Intelligence Advisory Groups. ...

(a)...The DCI shall establish such boards, councils or groups as required for the purpose of obtaining advice from within the Intelligence Community...

(b) Membership. ...Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. ...

1.4 -- The Intelligence Community. The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities.

(c) Collection of information concerning, and the conduct of activities to protect against intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents.

1.5 Director of Central Intelligence.

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to the expected future needs for national foreign intelligence;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(m) Establish mechanisms which translate national foreign

intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, ...

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress.

1.7 Senior Officials of the Intelligence Community. The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

...

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

...

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.11 The Department of Defense. The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence.

...

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence

requirements;

1.12 Intelligence Components Utilized by the Secretary of Defense.

....

(e) Other offices within the Department of Defense appropriate for conduct of the intelligence mission and responsibilities assigned to the Secretary of Defense. If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

....

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

....

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities;

....

(c) Offices for the collection of specialized intelligence through reconnaissance programs, whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasks in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

Part 2

Conduct of Intelligence Activities

2.1 Need. Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and

foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 Purpose. this Order is intended to enhance human and technical collection techniques, especially those undertaken abroad ... Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of an department or agency.

2.3 Collection of Information. Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Partt 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(10 types are listed. This list is enclosed as a separate attachment which is a xerox from the E.O.)

...
In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the informataion is relevant to its responsibilities and can be retained by it.

2.4 Collection Techniques. Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney Generall. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. ... ”