

DISCLOSURE OF ASYLUM OR REFUGEE INFORMATION FOR COUNTERTERRORISM AND INTELLIGENCE PURPOSES

I. Purpose

This Directive serves as the principal reference for the disclosure of Asylum or Refugee Information by the Under Secretary for Intelligence and Analysis (USIA), the Director of U.S. Citizenship and Immigration Services (USCIS), the Commissioner of U.S. Customs and Border Protection (CBP), the Assistant Secretary/Director of U.S. Immigration and Customs Enforcement (ICE), and the Director of Operations Coordination (collectively, the "Disclosure Officials") for intelligence (including foreign intelligence or counterintelligence) or counterterrorism purposes to elements of the Intelligence Community, other federal departments and agencies, and state, tribal, territorial, local, and, in certain limited circumstances as provided in this Directive, foreign government entities.

II. Scope

This Directive applies to all Components. It does not affect the disclosure of Asylum or Refugee Information with the written consent of the applicant or in accordance with international agreements or arrangements contemplating the disclosure of Asylum or Refugee Information for immigration purposes, including agreements or arrangements contemplating such disclosures for both immigration and counterterrorism purposes; the disclosure of Asylum Information pursuant to a separate exercise of discretion by the Secretary under Title 8, Code of Federal Regulations (CFR), Section 208.6(a); or in accordance with the exceptions described in Title 8, CFR, Section 208.6(c); or the disclosure of Refugee Information in accordance with the related DHS policy governing confidentiality of Refugee Information.

This Directive supersedes the Policy Memorandum, Disclosure of Asylum-Related Information to U.S. Intelligence and Counterterrorism Agencies, issued on April 18, 2007; the Addendum to Asylum and Refugee-Related Information to U.S. Intelligence and Counterterrorism Agencies Pursuant to 8 CFR Section 208.6(a) Addendum to 2007 Secretary Chertoff Memo, issued on August 25, 2011; and the Policy Statement Regarding the Disclosure of Asylum and Refugee-Related Information to United States Intelligence and Counterintelligence Agencies, issued on July 8, 2013.

III. Authorities

- A. Title 6, United States Code (U.S.C.), Section 112, Secretary; functions.
- B. Title 8, U.S.C., Section 1103, Powers and duties of the Secretary, the Under Secretary, and the Attorney General.
- C. Title 50, U.S.C., Chapter 15, National Security Act of 1947, as amended.
- D. Executive Order (EO) 12333, U.S. Intelligence Activities, as amended.
- E. EO 13388, Further Strengthening the Sharing of Terrorism Information to Protect Americans.
- F. Title 8, CFR, Section 208.6, Disclosure to third parties.
- G. Privacy Incident Handling Guidance, January 26, 2012.
- H. Delegation 08505, Delegation of Authority to Disclose Asylum or Refugee Information, June 22, 2016.

IV. Responsibilities

- A. The USIA serves as the Chief Intelligence Officer for the Department, exercising leadership and authority over intelligence policy and programs throughout the Department and, acting in conjunction with, and without preempting the authorities of the Chief Information Officer and the Chief Security Officer, exercising leadership over information sharing and safeguarding policy and programs throughout the Department in partnership with the Heads of other Components, including with respect to Asylum or Refugee Information. The USIA manages the execution of this Directive.
- B. The Director of USCIS oversees lawful immigration to the United States by establishing national immigration services policies and priorities, including with respect to the disclosure of Asylum or Refugee Information.
- C. The Commissioner of CBP is responsible for integrated border management, including immigration control and trade and travel processing, as well as protecting the borders of the United States from terrorists and terrorist weapons in cooperation with other federal, state, local, and foreign partners, including through the disclosure of Asylum or Refugee Information.

- D. The **Assistant Secretary/Director of ICE** enforces immigration and customs laws and protects the United States against terrorist attacks by identifying criminal activities and eliminating vulnerabilities that pose a threat along our borders, as well as enforcing economic, transportation, and infrastructure security, including through the disclosure of Asylum or Refugee Information.
- E. The **Director of Operations Coordination** provides decision support and enables the Secretary's execution of responsibilities across the Homeland Security Enterprise by providing situational awareness and information sharing under continually evolving operational conditions, including through the authorized disclosure of Asylum or Refugee Information.
- F. The **General Counsel** is the final legal authority, who participates in and decides any legal matter within the Department, and provides legal advice to all Components of the Department on any legal matter that arises, including with respect to Asylum or Refugee Information.
- G. The **Chief Privacy Officer** is the senior official within the Department with primary responsibility for privacy compliance and policy, including with respect to Asylum or Refugee Information.
- H. The **Officer for Civil Rights and Civil Liberties** directs and oversees the implementation of the integration of civil rights and civil liberties across the Department, serving as the foundational DHS organization through which all Department-wide civil rights and civil liberties activities are overseen, defined, and measured, including with respect to the disclosure of Asylum or Refugee Information.
- I. Other **Component Heads** implement and execute all applicable policies and procedures set forth in this Directive and any implementing instructions or other policy guidance to the extent permitted by and consistent with their authorities and any restrictions or requirements imposed by applicable law or policy.

V. Policy and Requirements

- A. Disclosing Officials, acting consistent with applicable law and policy, and pursuant to Delegation 08504, disclose Asylum or Refugee Information to other federal departments or agencies and state, tribal, territorial, or local entities, or foreign governments solely in furtherance of those entities' authorized counterterrorism functions, or to elements of the Intelligence Community for authorized intelligence or counterterrorism functions, but only to the extent approved by or consistent with procedures developed in conjunction with the Component Head maintaining the system of records in which the relevant information resides.

- B. The Component or Office of each Disclosing Official, in coordination with the Office of the General Counsel (OGC), the Office for Civil Rights and Civil Liberties (CRCL), the Privacy Office (PRIV), and USCIS, develops appropriate policies or processes to comply with this Directive, its related Instruction, and other applicable policies. OGC, CRCL, PRIV, and USCIS assist in the development and review of the sufficiency of the policies or processes, and review compliance with the applicable policies or processes.
- C. Only Asylum or Refugee Information concerning known or suspected terrorists is disclosed to the government of an applicant's (or, for individuals who have successfully applied for asylum or refugee status, that individual's) country of nationality (or, if the individual is stateless, country of former habitual residence), or country from which the applicant (or individual who successfully applied for asylum or refugee status) is seeking protection, except as directed otherwise by the Secretary or the Deputy Secretary acting on the Secretary's behalf.

VI. Questions

Address any questions or concerns regarding this Directive to the Office of Intelligence and Analysis.



Chip Fulghum
Deputy Under Secretary for Management and
Chief Financial Officer

11/15/2016

Date