



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

May 13, 2011
Incorporating Change 2, November 29, 2012

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Directive-Type Memorandum (DTM) 11-007 – Delegation of Authority to Approve Consensual Interceptions for Law Enforcement

- References:
- (a) DoD Directive 5106.01, "Inspector General of the Department of Defense," April 13, 2006
 - (b) DoD Directive 5505.9, "Interception of Wire, Electronic, and Oral Communications for Law Enforcement," April 20, 1995
 - (c) DoD O-5505.9-M, "Procedures for Wire, Electronic, and Oral Interceptions for Law Enforcement," May 1995
 - (d) Sections 2510-2522 of title 18, United States Code
 - (e) Attorney General Memorandum, "Procedures for Lawful, Warrantless Monitoring of Verbal Communications," May 30, 2002

Purpose. This DTM:

- (FOUO) In accordance with the authority in Reference (a), establishes policy assigns responsibilities, and temporarily amends subparagraphs 4.3 and 5.5 of References (b) and Chapter 1, subparagraph A.2.a. of Reference (c) to authorize the heads of the Defense Criminal Investigative Organizations (DCIOs) to delegate approval authority for consensual interceptions, for law enforcement purposes, to his or her designee. This amendment is critical to ensure that approval of consensual interceptions (including time-sensitive requests), historically restricted to heads of the DCIOs only, is not unnecessarily delayed, which might otherwise potentially hinder, impact, or compromise criminal investigative operations or jeopardize the safety of criminal investigators or other entities, due to the unavailability or absence of a DCIO head. The current interceptions statute (Reference (d)), Department of Justice (DoJ) guidelines (Reference (e)), and operational continuity and participant safety serve as the basis for this amendment. This amendment is consistent with section 2511 of Reference (d) and reflects current DoJ guidelines (Reference (e)) relative to approval procedures for consensual interceptions.
- This DTM is effective upon its publication to the DoD Issuances Website; it shall be converted to a new DoD Instruction. This DTM shall expire effective May 30, 2013.

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Applicability. This DTM applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within DoD.

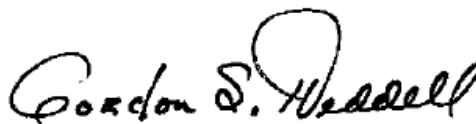
Definitions. See Reference (c) for a list of applicable definitions relevant to this DTM.

Policy. (FOUO) It is DoD policy that the heads of the DCIOs, upon receiving the concurrence of the head of their respective DoD Component, may delegate their authority to approve consensual interceptions of wire, electronic, and oral communications to their respective headquarters-level deputy director, vice commander, or deputy commander (grade O-6 or above or the civilian grade equivalent) who exercises direct oversight authority of criminal investigative operations. Such authority may also be delegated to a person serving in a Senior Executive Service (SES) or general or flag officer (G/FO) position, provided the designee serves in a DCIO headquarters-level position that exercises direct oversight authority of criminal investigative operations.

Responsibilities. (FOUO) The heads of the DCIOs may, in their respective areas of responsibility and upon receiving the concurrence of the head of their respective DoD Component, authorize (or designate authority to authorize) the consensual interception of wire, electronic, and oral communications for law enforcement following a legal sufficiency review and concurrence in conformity with the procedures described in this DTM and Chapter 1, subparagraph A. of Reference (c). Delegation of authority shall be in writing, and the designee shall be a DCIO headquarters-level deputy director, vice commander, or deputy commander (grade O-6 or above or the civilian grade equivalent) who exercises direct oversight authority of criminal investigative operations. Such authority may also be delegated to a person serving in an SES or G/FO position, provided the designee serves in a DCIO headquarters-level position that exercises direct oversight authority of criminal investigative operations.

Procedures. (FOUO) Excluding any exceptions noted within existing consensual interceptions procedures of Reference (c) (i.e., emergency situations, joint investigations), consensual interceptions of wire, electronic, and oral communications shall be authorized in writing by the DCIO approval authority or his or her designee, as provided in this DTM, after a legal sufficiency review.

Releasability. RESTRICTED. This DTM is approved for restricted release. It is available to users with Common Access Card authorization on the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.



Gordon S. Heddell

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