

UNCLASSIFIED//~~FOUO~~

FEDERAL BUREAU OF INVESTIGATION
POLICY DIRECTIVE

0078D

1. Policy Directive Title.	(U// FOUO) OGC Statement of Authorities and Responsibilities
2. Publication Date.	2008-05-27
3. Effective Date.	2008-03-20
4. Review Date.	2018-03-28
5. Date of Last Renewal.	03/25/2015

6. Authorities:

- 6.1. (U//~~FOUO~~) General Law Branch:
- 6.1.1. (U//~~FOUO~~) Title 5 United States Code (U.S.C.) Section (§) 552a
 - 6.1.2. (U//~~FOUO~~) 28 U.S.C. §§ 533, 534
 - 6.1.3. (U//~~FOUO~~) E Government Act of 2002, P.L. 107-347
 - 6.1.4. (U//~~FOUO~~) Implementing Recommendation of 9/11 Commission Act of 2007, P.L. 110-53
 - 6.1.5. (U//~~FOUO~~) Information Technology Reform Act of 2002, P.L. 107-347
 - 6.1.6. (U//~~FOUO~~) Federal Records Act
 - 6.1.7. (U//~~FOUO~~) Title 28 Code of Federal Regulations (CFR) § 0.85, Parts 16, 20, 22, 39, 46, 105
 - 6.1.8. (U//~~FOUO~~) Federal Acquisition Regulations
 - 6.1.9. (U//~~FOUO~~) HSPD-6
- 6.2. (U//~~FOUO~~) Investigative Law and Training Branch:
- 6.2.1. (U//~~FOUO~~) 18 U.S.C. §§ 1602-1621
 - 6.2.2. (U//~~FOUO~~) 18 U.S.C. § 983
 - 6.2.3. (U//~~FOUO~~) 28 U.S.C. § 524
 - 6.2.4. (U//~~FOUO~~) 28 CFR Part 8 and 9
 - 6.2.5. (U//~~FOUO~~) 21 CFR §§ 1316.17-1316.99
 - 6.2.6. (U//~~FOUO~~) The Attorney General's Guidelines for Domestic FBI Operations
 - 6.2.7. (U//~~FOUO~~) DOJ Asset Forfeiture Policy Manual
 - 6.2.8. (U//~~FOUO~~) Federal Rules of Criminal Procedures
- 6.3. (U//~~FOUO~~) Litigation Branch:
- 6.3.1. (U//~~FOUO~~) 5 U.S.C. §§ 552, 552a
 - 6.3.2. (U//~~FOUO~~) 28 U.S.C. §§ 516, 519, 2401, 2672, 2675
 - 6.3.3. (U//~~FOUO~~) 31 U.S.C. §§ 3742
 - 6.3.4. (U//~~FOUO~~) 42 U.S.C. § 2000e
 - 6.3.5. (U//~~FOUO~~) 28 CFR Part 14, Part 16, Part 27, Part 50
 - 6.3.6. (U//~~FOUO~~) Federal Rules of Civil Procedure
- 6.4. (U//~~FOUO~~) National Security Law Branch
- 6.4.1. (U//~~FOUO~~) The Attorney General's Guidelines for Domestic FBI Operations
 - 6.4.2. (U//~~FOUO~~) Executive Order (EO) 12333, United States Intelligence Activities, as amended
 - 6.4.3. (U//~~FOUO~~) Foreign Intelligence Surveillance Act, 50 U.S.C. §§ 1801-1885c
 - 6.4.4. (U//~~FOUO~~) Intelligence Reform and Terrorism Prevention Act of 2004, as amended
 - 6.4.5. (U//~~FOUO~~) The National Security Act of 1947, as amended

- 6.4.6. (U//~~FOUO~~) The FBI's Domestic Investigations and Operations Guide
- 6.4.7. (U//~~FOUO~~) Statutes authorizing the issuance of National Security Letters (15 U.S.C. §§ 1681u, 1681v; 18 U.S.C. § 2709; 12 U.S.C. § 3414(a)(5)(A); 50 U.S.C. § 436
- 6.4.8. (U//~~FOUO~~) Federal Crimes of Terrorism (18 U.S.C. § 2332b(f))
- 6.4.9. (U//~~FOUO~~) NSPD-46/HSPD-15, U.S. Policy and Strategy in the War on Terror, Annex II (Consolidation and Updating of Outdated Presidential Counterterrorism Documents)
- 6.4.10. (U//~~FOUO~~) Section 603, Intelligence Authorization Act of 1990 (P.L. 101-193), Espionage Investigations of Persons in United States Diplomatic Missions Abroad
- 6.4.11. (U//~~FOUO~~) Intelligence Community Directives issued by the Director of National Intelligence
- 6.4.12. (U//~~FOUO~~) Classified Information Procedures Act, 18 U.S.C. Appendix 3
- 6.4.13. (U//~~FOUO~~) EO 13462, President's Intelligence Advisory Board and Intelligence Oversight Board (IOB)

7. Purpose:

(U//~~FOUO~~) To establish the authorities and responsibilities of the Office of the General Counsel

8. Policy Statement:

8.1. (U//~~FOUO~~) The mission of the FBI's Office of the General Counsel (OGC) is to provide comprehensive legal advice to the Director, other FBI officials and divisions, and field offices on a wide array of national security, investigative, and administrative operations. In addition to providing legal advice as requested, OGC reviews the legal sufficiency of sensitive Title III affidavits and a wide variety of operational documents relating to foreign counterintelligence/ international terrorism cases, including requests for surveillance and physical searches pursuant to the Foreign Intelligence Surveillance Act (FISA) and undercover proposals, and manages the physical flow of FISA requests, applications, orders, and returns. OGC maintains liaison with the intelligence community on legal issues and reviews for legal sufficiency proposals to share information or form partnerships with other federal, state, local, and international agencies. OGC supports federal criminal prosecutions by assisting in criminal discovery, by conducting reviews of personnel files, and by coordinating the defense of the FBI and its employees in civil actions that arise out of the FBI's investigative mission and personnel matters. OGC addresses legal issues associated with the impact of communication and information technology on the ability of the FBI and other law-enforcement and intelligence agencies to execute their public safety and national security missions, including their ability to conduct authorized electronic surveillance. Finally, OGC provides essential legal training for FBI personnel, the National Academy, and other law enforcement groups.

8.2. (U//~~FOUO~~) Structure: The Office of the General Counsel is comprised of the General Law Branch, Investigative Law and Training Branch, Litigation Branch, and the National Security Law Branch.

8.2.1. (U//~~FOUO~~) General Law Branch:

8.2.1.1. (U//~~FOUO~~) The mission of the General Law Branch is to assist the General Counsel in supporting the operational and administrative components of the FBI by providing timely, accurate, and cogent legal advice and counsel on a wide range of issues and matters in the areas of administrative procurement and privacy law.

Additionally, it provides quality legal instruction to classes of FBI personnel, the National Academy, the National Law Institute, and other specialized classes. Legal issues and matters include, but are not limited to, constitutional law, agency authority and organization, fiscal law, and property, and contracting and procurement. The branch also provides legal services regarding special projects and assignments, and works with other OGC branches to further the General Counsel's overall mission. The General Law Branch is currently comprised of the following units: Access Integrity; General Law; Legal Instruction' Privacy and Civil Liberties; and Procurement Law.

8.2.2. (U//~~FOUO~~) Investigative Law and Training Branch:

8.2.2.1. (U//~~FOUO~~) The mission of the Investigative Law and Training Branch is to provide legal advice, guidance and training to the FBI and its employees concerning: criminal investigative jurisdiction, operations, and techniques; support the FBI's Legal Attache program; forfeiture matters; and issues associated with the impact of new and emerging communication/information technologies or scientific techniques on the FBI's mission. Additionally, it provides quality legal instructions to classes of FBI personnel, the National Academy, the National Law Institute, and other specialized classes. The Investigative Law and Training Branch is currently comprised of the following units: Investigative Law; Legal Forfeiture; Legal Instruction; Science and Technology Law; and Science and Technology Policy and Law (the last two units are part of the Science and Technology Law Office).

8.2.3. (U//~~FOUO~~) Litigation Branch:

8.2.3.1. (U//~~FOUO~~) The mission of the Litigation Branch is to coordinate the defense of civil actions filed against the United States for the official acts of FBI employees, coordinate FBIHQ responses to subpoenas and civil discovery requests, including requests for electronic discovery, coordinate the defense of litigation arising out of the Freedom of Information Act and the Privacy Act (FOIPA), and defend the FBI against claims for unemployment compensation, Equal Employment Opportunity complaints, and employee complaints brought before the Merit Systems Protection Board. The Litigation Branch is currently comprised of the following units: Civil Discovery Review; Electronically Stored Information Discovery; Civil Litigation I & II, Employment Law I & II; and FOIA Litigation.

8.2.4. (U//~~FOUO~~) National Security Law Branch:

8.2.4.1. (U//~~FOUO~~) The mission of the National Security Law Branch (NSLB) is to provide prompt, quality legal services that support operational and policy elements of the FBI which are related to the national security functions of the FBI. These matters include foreign counterintelligence (FCI), international terrorism, domestic security/terrorism (including weapons of mass destruction and counter-proliferation), and computer intrusion/infrastructure protection. NSLB ensures an efficient, timely process to initiate and renew court orders authorizing business records, pen registers/trap and trace devices, electronic surveillance, and physical search issued under the authority of Foreign Intelligence Surveillance Act. NSLB Branch provides critical, time-sensitive advice when intelligence or national security information is disseminated to, requested by, or otherwise used in the context of a criminal investigation, prosecution, or analytical project, including dissemination to a foreign power. A major mission element is to develop and maintain liaison relationships with the intelligence community, Departments of Justice, Defense and State, and other U.S. Government agencies on legal issues and operational requirements relating to national security. The National Security Law Branch is comprised of the following units: Classified Litigation Support; National Security Law Operations I, II, III, and IV; Foreign Intelligence Surveillance Act; National Security Law Compliance, Oversight, and Training; and National Security Law Policy and

Legislative Review.

9. Scope:

(U//~~FOUO~~) This policy is applicable to all FBI Headquarters Divisions, Field Offices and Legats

10. Proponent:

(U//~~FOUO~~) General Counsel, Office of the General Counsel, Director's Office

11. Roles and Responsibilities:

(U//~~FOUO~~) The General Counsel, or designee, is responsible for the following functions:

11.1. (U//~~FOUO~~) General Law Branch:

11.1.1. (U//~~FOUO~~) Provide legal advice and guidance regarding compliance with the Privacy Act of 1974

11.1.2. (U//~~FOUO~~) Administer the privacy impact assessment process as required by the E-Government Act of 2002

11.1.3. (U//~~FOUO~~) Provide legal advice and guidance regarding the sharing of FBI information within the Information Sharing Environment, the law enforcement community, and the intelligence community

11.1.4. (U//~~FOUO~~) Provide legal advice and guidance to the Finance Division regarding fiscal law matters

11.1.5. (U//~~FOUO~~) Provide legal advice and guidance to the Human Resources Division regarding personnel law matters

11.1.6. (U//~~FOUO~~) Provide legal advice and guidance regarding compliance with the American Disability Act

11.1.7. (U//~~FOUO~~) Provide legal advice and guidance to the Records Management Division regarding compliance with federal records collection, maintenance, and disposal

11.1.8. (U//~~FOUO~~) Coordinate the legal review and approval of memoranda of understanding and agreement for the FBI

11.1.9. (U//~~FOUO~~) Coordinate the legal review of FBI policy documents

11.1.10. (U//~~FOUO~~) Provide legal advice and guidance to the Institutional Review Board regarding human subject projects

11.1.11. (U//~~FOUO~~) Provide legal advice and guidance to the Records Management Division regarding pre-publication review

11.1.12. (U//~~FOUO~~) Provide legal advice to the Criminal Justice Information Services Division regarding access to FBI information, users fees, and compliance with NCIC governance

11.1.13. (U//~~FOUO~~) Provide legal advice and guidance to CJIS regarding the administration of the National Instant Check System (NICS)

11.1.14. (U//~~FOUO~~) Draft for division review systems of records notices and notice of proposed rule making for various FBI systems that require public notice and comment

11.1.15. (U//~~FOUO~~) Provide procurement law advice and guidance to the Finance Division and all FBI headquarters divisions involved in contract awards, execution, and termination to ensure compliance with federal acquisition regulations

11.1.16. (U//~~FOUO~~) Represent the FBI before OMB in responding to contractual protests

11.1.17. (U//~~FOUO~~) Assist FBI headquarters divisions in drafting statements of

work, requests for proposals, and justifications for sole source contracts

11.1.18. (U//~~FOUO~~) Provide training to FBI employees in all of the above legal specialties

11.1.19. (U//~~FOUO~~) Provide comprehensive legal advice to the Terrorism Screening Center (TSC) Director, other TSC executives, units, and personnel, as well as the TSC Governance Board, on a wide array of national security, operational, policy, and legislative matters.

11.2. (U//~~FOUO~~) Investigative Law and Training Branch:

11.2.1. (U//~~FOUO~~) Approve all legal policy involving the FBI's forfeiture program

11.2.2. (U//~~FOUO~~) Review all administrative forfeitures for legal sufficiency

11.2.3. (U//~~FOUO~~) Review all petitions for remission or mitigation of the forfeiture of property received by the FBI in administrative forfeiture cases

11.2.4. (U//~~FOUO~~) Approve and provide all legal training provided by the FBI on the forfeiture process and procedure

11.2.5. (U//~~FOUO~~) Review and approve all 30 day extensions and certifications required by 18 U.S.C. § 983(a)(1)(B) and 18 U.S.C. § (a)(1)(C)

11.2.6. (U//~~FOUO~~) Review and approve all informant award payments with forfeiture funds pursuant to 28 U.S.C. § 524(c)(1)(C)

11.2.7. (U//~~FOUO~~) Review and approve all special adoptions when the seizure for forfeiture was not based on a judicial warrant; when no arrest was made in connection with the seizure for forfeiture; and no drugs or other contraband were seized from the person from whom the property was seized for forfeiture

11.2.8. (U//~~FOUO~~) Provide legal guidance and training on all criminal law issues

11.2.9. (U//~~FOUO~~) Provide legal counsel to the Domestic Terrorism Operations Section, CTD

11.2.10. (U//~~FOUO~~) Provide legal counsel to the Weapons of Mass Destruction Directorate

11.2.11. (U//~~FOUO~~) Provide legal advice on McDade/represented parties

11.2.12. (U//~~FOUO~~) Provide legal guidance to Field Offices and the Shooting Incident Review Group (SIRG) on the application of the Deadly Force Policy

11.2.13. (U//~~FOUO~~) Approve sensitive Title III applications and consensual monitoring

11.2.14. (U//~~FOUO~~) Provide advice on authorities and restrictions on obtaining and disseminating information in criminal cases (e.g., Grand Jury, RFPA, FCRA, Federal Tax Code, FERPA, SARs)

11.2.15. (U//~~FOUO~~) Provide legal guidance and training on issues related to the operations of Confidential Human Sources in criminal investigations

11.2.16. (U//~~FOUO~~) Provide legal guidance to the Field Offices and Criminal Undercover Review Operations Committee (CUROC) regarding undercover operations

11.2.17. (U//~~FOUO~~) Provide legal guidance on task force issues related to criminal investigations including state/federal jurisdiction and deputization

11.2.18. (U//~~FOUO~~) Provide legal guidance and training on extraterritorial matters related to criminal investigations

11.2.19. (U//~~FOUO~~) Provide legal guidance on issues related to criminal trials including discovery, Brady/exculpatory evidence, Touhy regulations, Giglio/impeachment material, Jencks/witness statements, and trial subpoenas

11.2.20. (U//~~FOUO~~) Provide legal guidance on issues regarding juvenile subjects, witnesses, and victims for criminal investigations

11.2.21. (U//~~FOUO~~) Serve as primary legal advisor to all components of the Science and Technology Branch

11.2.22. (U//~~FOUO~~) Provide legal guidance regarding the development, use and dissemination of scientific techniques and investigative and analytical technologies by the FBI

11.2.23. (U//~~FOUO~~) Provide legal guidance regarding the impact of emerging

technologies on the FBI's mission

11.2.24. (U//~~FOUO~~) Assist the Department of Justice in representing the interests of the FBI in matters appearing before the Federal Communications Commission (FCC) and other telecommunications related proceedings

11.2.25. (U//~~FOUO~~) Assist the Department of Justice in drafting and/or implementing agreements between the USG and private telecommunications providers or other entities in order to mitigate concerns relating to foreign ownership

11.2.26. (U//~~FOUO~~) Develop, draft, coordinate, and file petitions and other pleadings with the FCC and the courts regarding implementation of the Communications Assistance for Law Enforcement Act (CALEA)

11.2.27. (U//~~FOUO~~) Provide formal institutional legal training to new agents, analysts, and National Academy students at the FBI Academy

11.2.28. (U//~~FOUO~~) Manage the CDC program

11.3. (U//~~FOUO~~) Litigation Branch:

11.3.1. (U//~~FOUO~~) Represent the FBI and its employees in EEO and MSPB proceedings at the administrative level

11.3.2. (U//~~FOUO~~) Represent the FBI before the Office of Attorney Recruitment and Management (OARM) in whistleblower proceedings;

11.3.3. (U//~~FOUO~~) Assist the Department of Justice in representing the FBI in all federal district court proceedings involving the FBI and its employees in their official capacity

11.3.4. (U//~~FOUO~~) Prepare requests for representation for FBI employees sued in their individual capacity, where appropriate

11.3.5. (U//~~FOUO~~) Respond to all subpoenas issued to the FBI and its employees in their official capacity

11.3.6. (U//~~FOUO~~) Process claims against the FBI brought under the Federal Tort Claims Act

11.3.7. (U//~~FOUO~~) Approve settlement agreements in EEO cases under the OEEOA mediation program

11.3.8. (U//~~FOUO~~) Provide advice and guidance to FBI management on personnel matters

11.3.9. (U//~~FOUO~~) Provide training, as requested, on FBI personnel matters and litigation

11.3.10. (U//~~FOUO~~) Identify, preserve, collect, review and process documents or other potentially relevant data, whether in electronic or paper format, for use in official litigation or proceedings

11.3.11. (U//~~FOUO~~) Provide advice and legal review of all security clearance denials and revocations

11.3.12. (U//~~FOUO~~) Represent the FBI before the Department of Justice Access Review Committee (ARC)

11.3.13. (U//~~FOUO~~) Facilitate and coordinate emergency interim representation for agents involved in critical incidents (e.g., shootings)

11.4. (U//~~FOUO~~) National Security Law Branch:

11.4.1. (U//~~FOUO~~) Acts as the Original Classification Authority (OCA)

11.4.2. (U//~~FOUO~~) Reviews and approves National Security Letters

11.4.3. (U//~~FOUO~~) Provides operational legal advice and support, including on the implementation of Foreign Intelligence Surveillance Act (FISA) and FISA Amendment Act authorities, and reviews all FISA applications; the Deputy General Counsel approves Business Records requests

11.4.4. (U//~~FOUO~~) Oversees the development and implementation of the FISA Management System (FISAMS), which electronically connects the field offices, FBIHQ, NSLB, and OI to one another and is used to transmit and track all FISA packages.

- 11.4.5. (U//~~FOUO~~) Provides legal advice regarding NSLs and other tools used in national security investigations and oversees the development and implementation of the NSL and statistics for congressional or White House reporting
- 11.4.6. (U//~~FOUO~~) Maintains website accessible to Bureau employees containing guidance related to national security matters
- 11.4.7. (U//~~FOUO~~) Coordinates and provides training for the substantive divisions related to national security matters.
- 11.4.8. (U//~~FOUO~~) Provides litigation support in criminal prosecutions, civil litigations, and immigration matters arising from FBI national security investigations including legal advice for the use and dissemination of classified information in such matters.
- 11.4.9. (U//~~FOUO~~) Reviews and approves all legal policy with respect to national security investigations
- 11.4.10. (U//~~FOUO~~) Provides legal advice in all aspects of national security investigations in support of all Divisions of the National Security Branch, the national security related mission of the Cyber Division and the International Operations Division and to the Inspection Division in its national security related efforts (such as the periodic review of national security letters)
- 11.4.11. (U//~~FOUO~~) Adjudicates all potential Intelligence Oversight Board matters for the FBI and reports verified IOB violations to the President's Intelligence Oversight Board and the Director of National Intelligence
- 11.4.12. (U//~~FOUO~~) Provides and supports programmatic reviews of national security investigations
- 11.4.13. (U//~~FOUO~~) Supports the Office of Congressional Affairs on national security related matters by reviewing and commenting upon draft legislation and assisting with the disclosure of information requested by Congress or required by statute to be reported to Congress
- 11.5. (U//~~FOUO~~) OGC Law Library:
- 11.5.1. (U//~~FOUO~~) OGC Law Library Paralegal assists with finding legal publications and conducts legal research for HQ and field office personnel.
- 11.5.2. (U//~~FOUO~~) Law Library contains legal publications that include the United States Code, Code of Federal Regulations, United States Congressional Code and Administrative News (which contain all US Public Laws and Executive Orders), Federal court decisions, and treatises on various areas of the law.

12. Exemptions:

(U) None

13. Supersession:

(U) None

14. References, Key Words, and Links:

(U//~~FOUO~~) [OGC's website](#) supports all aspects of its mission "to provide comprehensive legal advice to the Director, other FBI officials and divisions, and field offices on a wide array of national security, investigative, and administrative operations." Subpages dedicated to each branch and each unit within each branch ensure that all FBI personnel have access to timely and accurate information. At a minimum, each unit's page includes the mission of that unit, the directory of that unit, announcements and a library of materials relevant to that unit's mission. On most unit pages, users can find samples of a wide variety of legal documents,

applicable laws, guidance for complying with legal requirements, and links to training materials.

15. Definitions:

(U) None

16. Appendices, Attachments, and Forms:

(U) None

Final Approval

Name: John S. Pistole

Title: Deputy Director

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