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DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511

E/S 2014-00402

MEMORANDUM FOR: Distribution

SUBJECT: Reporting Possible Violations of Federal and State Criminal Law

AUTHORITIES:

- A. Title 28, United States Code, Section 535(b)
- B. Executive Order 12333, as amended, *United States Intelligence Activities*, 30 Jul 08
- C. Executive Order 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information*, 30 Jun 08
- D. Executive Order 12968, as amended, *Access to Classified Information*
- E. *Intelligence Reform and Terrorism Prevention Act of 2004*, Section 3001
- F. Memorandum of Understanding, *Reporting of Information Concerning Federal Crimes*, August 1995
- G. Office of the Attorney General Memorandum, 14 Sept 07

The Inspector General of the Intelligence Community (IC) has completed a report related to polygraph examinations and the crimes reporting process, finding that there is a need to ensure that IC elements have appropriate policies regarding the reporting of possible federal and state crimes. The IC is committed to upholding and being accountable to the law. Responsible and consistent crime reporting is a fundamental part of this duty.

Title 28, United States Code, Section 535(b) imposes a statutory duty to report federal criminal activity to the Attorney General, and the 1995 Memorandum of Understanding (MOU), *Reporting of Information Concerning Federal Crimes* sets forth the procedures by which each element of the IC shall report to the Department of Justice and to federal investigative agencies information concerning possible federal crimes by employees of an intelligence agency or organization, or violations of specified federal criminal laws by any other person. IC elements shall ensure, including through written policies or procedures, that suspected federal crimes are reported to the Department of Justice consistent with the MOU and in a responsible and expeditious manner.

In addition, IC elements shall ensure that their policies or procedures provide for the reporting of possible violations of the Uniform Code of Military Justice to the Secretary of the military department concerned or the Secretary of Defense, and the applicable military criminal investigative organization in coordination with their Office of General Counsel (OGC).

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Finally, IC elements shall ensure that their policies or procedures provide for responsible and expeditious reporting of facts that reasonably indicate the planning for or commission of state, local or tribal felony crimes identified during the process of determining an individual's eligibility for access to classified information in accordance with Executive Order 12968, *Access to Classified Information*. IC element policies and procedures shall provide for notification to the IC element's OGC and Inspector General, and for reporting to the appropriate state, local, and tribal authorities in coordination with the IC element's OGC and consistent with the terms of Standard Form 86, *Questionnaire for National Security Positions*, which provides assurances that responses and information derived from truthful responses pertaining to drug use and activity, and certain use of information technology systems will not be used as evidence in criminal proceedings.

In accordance with the above, IC elements shall review and, as necessary, update their training requirements to ensure employees are knowledgeable of and in compliance with the element's policies and procedures for reporting information regarding possible violations of federal criminal laws or of state, local or tribal felony criminal laws.

Nothing in this Executive Correspondence shall be construed to limit other crimes reporting responsibilities. Additionally, this Executive Correspondence does not in itself create any cause of action or right of relief for any party.

My point of contact on this matter is James A. Smith, Director for Policy at (703) 275-3097.


James R. Clapper


Date

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