

No. 038-15

The Permanent Mission of the United States of America to the Office of the United Nations and other international organizations in Geneva presents its compliments to the Human Rights Committee and has the honor of conveying to the Committee the U.S. government's one-year follow-up response to priority recommendations of the Human Rights Committee on the United States' fourth periodic report on implementation of the International Covenant on Civil and Political Rights.

The Permanent Mission of the United States avails itself of the opportunity to express once again the commitment of the United States to the protection and promotion of human rights and to the work of the Committee, and to renew to the Human Rights Committee the assurances of its highest consideration.

Enclosure:

As stated.

The Permanent Mission of the
United States of America,
Geneva, March 31, 2015



OHCHR REGISTRY

01 APR 2015

Recipients: *HR Committee*
.....
.....
.....

DIPLOMATIC NOTE

**One-Year Follow-up Response of the United States of America
to Priority Recommendations of the Human Rights Committee
on its Fourth Periodic Report on Implementation of the International Covenant on Civil
and Political Rights**

1. Pursuant to the Committee's request, the United States provides the following information pertaining to four of the Committee's recommendations (¶¶ 5, 10, 21, and 22 of its Concluding Observations adopted March 26, 2014), focused primarily on measures taken subsequent to the Committee's recommendations and taking into consideration the Committee's follow-up guidelines.

Response to Committee Recommendation ¶ 5 - Accountability for past human rights violations:

2. The United States prohibits its personnel from engaging in acts of torture or cruel, inhuman, or degrading treatment of any person in its custody wherever they are held. It likewise does not permit personnel to engage in unlawful killing, arbitrary detention, or forced disappearance. The United States takes vigilant action to prevent any such unlawful conduct by its personnel and to hold accountable any persons responsible for such acts. Successful prosecution, whether of civilian, military, or contract personnel, is dependent on the availability of evidence that will support conviction beyond a reasonable doubt. In addition, due process requires that the investigation and prosecution of these offenses must be conducted in accordance with the same legal standards applied to investigation and prosecution of other offenses. This is true for any prosecution in the United States, whether at the federal, state, or local level.

3. Federal Prosecutions: The following Federal prosecutions since the 110th session of the Committee supplement those enumerated in ¶ 181 of the Fourth Periodic Report and demonstrate the scope of criminal punishments available under U.S. law for misconduct of this nature by government personnel and contractors:

- On December 20, 2014, the U.S. District Court for the Eastern District of California sentenced Bryan Robert Benson, a former police officer in Anderson, California, to five years in prison and three years of supervised release for violating the civil rights of a woman he arrested. According to court documents, while Benson was transporting the

victim to jail, he stopped in a parking lot and sexually assaulted her. Benson was fired from his position with the Anderson Police Department as a result of his conduct. *See* <http://www.justice.gov/opa/pr/former-anderson-california-police-officer-sentenced-five-years-prison-sexually-assaulting>.

- On January 8, 2015, the U.S. District Court for the Middle District of Louisiana sentenced three former correctional officers with the Louisiana State Penitentiary in Angola, Louisiana, for abusing an inmate during transport to the prison medical unit and subsequently covering up their criminal conduct. Mark Sharp received 73 months in prison. Kevin Groom was sentenced to one year of probation and a \$500 fine. Matthew Cody Butler received two years' probation and a \$3,000 fine. According to court documents, during transport, Sharp repeatedly struck the inmate with a baton and in the ensuing investigation, Groom and Butler engaged in conduct to cover up the assault. *See* <http://www.justice.gov/opa/pr/three-former-correctional-officers-angola-prison-sentenced-abusing-inmate-and-cover>.
- On January 21, 2015, the U.S. District Court for the District of New Mexico sentenced Thomas R. Rodella, the former Rio Arriba County (New Mexico) Sheriff, to 121 months in prison for his conviction on criminal civil rights and firearms charges. Evidence at trial established that Rodella and his son engaged in an unjustified high-speed pursuit of the victim. Rodella, who was not in uniform and was driving his personal vehicle, entered the victim's vehicle and assaulted him with a firearm. Rodella's son dragged the victim out of his vehicle and when the victim requested to see Rodella's badge, Rodella pulled the victim's head up by his hair and slammed his badge into the victim's face. The victim suffered injuries to his face, and also injuries to his hand that required surgical repair. *See* <http://www.justice.gov/usao-nm/pr/former-rio-arriba-county-sheriff-thomas-r-rodella-sentenced-ten-years-federal-prison>.

4. The Department of Justice (DOJ) Human Rights and Special Prosecutions Section and the United States Attorneys' Offices pursue prosecutions of civilian personnel and contractors employed by the United States and allegedly involved in human rights violations. In addition to the convictions for unlawful killings and abuses committed by civilian personnel and contractors

in Afghanistan and Iraq, previously reported (*see* ¶¶ 40-41 and 46 of the United States Response to the Committee's List of Issues (LOIR) and ¶¶ 533-534 of the Fourth Periodic Report):

- On October 22, 2014, four civilian contractors – Dustin L. Heard, Evan S. Liberty, Nicholas A. Slatten, and Paul A. Slough – were convicted in U.S. District Court in Washington, D.C., of charges that included murder, manslaughter, and weapons violations, in connection with the deaths of 14 civilians and the injuring of 20 others in Nisur Square in Baghdad, Iraq, in 2007 while the defendants were employed there by the former Blackwater USA. Slatten faces a mandatory sentence of life in prison. The other three face a mandatory minimum of 30 years in prison. This prosecution was reported as ongoing in ¶ 544 of the Fourth Periodic Report.

5. As reported during the 110th session and in LOIR ¶ 47, the Attorney General announced on August 30, 2012 the closure of investigations into the death of two individuals in U.S. custody at overseas locations following review of the treatment of 101 persons alleged to have been mistreated in U.S. government custody after the 9/11 attacks. The Department of Justice ultimately declined these cases for prosecution consistent with the Principles of Federal Prosecution, which require that each case be evaluated for a clear violation of a federal criminal statute with provable facts that reflect evidence of guilt beyond a reasonable doubt and a reasonable probability of conviction. *See* <http://www.justice.gov/opa/pr/statement-attorney-general-eric-holder-closure-investigation-interrogation-certain-detainees>.

6. State-Level Prosecutions: Accountability exists at all government levels in the United States. The following examples of state and local prosecutions since the 110th session further demonstrate the scope of available criminal punishments:

- Nicholas Dimauro, a former Atlanta, Georgia, police officer was convicted of using excessive force for beating a man while attempting to make an arrest. The man suffered a collapsed lung and several broken ribs. In December 2014, a Fulton County judge sentenced him to ten years in prison, plus five years' probation.
- Johnnie Riley, a former police officer with the Prince George's County Police Department in Maryland, was convicted at trial of shooting in the back a man who had

fled from a police car while handcuffed. The suspect was paralyzed from the waist down as a result. In November 2014, the Prince George's County Circuit Court sentenced him to five years in prison.

7. Prosecution of Military Personnel: As previously reported, the U.S. military investigates all credible allegations of misconduct by U.S. forces to determine the facts, including identifying those responsible for any violation of law, policy, or procedures; and multiple accountability mechanisms are in place to ensure that personnel adhere to those laws, policies, and procedures.

8. The Department of Defense (DoD) has conducted thousands of investigations since 2001 and it has prosecuted or disciplined hundreds of service members for misconduct, including mistreatment of detainees. For example, more than 70 investigations concerning allegations of detainee abuse by military personnel in Afghanistan conducted by DoD resulted in trial by courts-martial, close to 200 investigations of detainee abuse resulted in either non-judicial punishment or adverse administrative action, and many more were investigated and resulted in action at a lower level. The remainder were determined to be unsubstantiated, lacking in sufficient inculpatory evidence, or were included as multiple counts against one individual.

9. Effective Remedies: DOJ's Civil Rights Division (DOJ/CRT) continues to institute civil suits for equitable and declaratory relief pursuant to the Pattern or Practice of Police Misconduct provision of the Crime Bill of 1994, 42 U.S.C. § 14141. Cases pursued since the 110th session that supplement those reported in ¶ 183 of the Fourth Periodic Report include:

- On March 4, 2015, DOJ announced that its civil rights investigation into the Ferguson, Missouri, Police Department had found a pattern or practice of excessive force and discriminatory policing, among other violations. DOJ also announced that it did not find sufficient evidence to bring federal criminal civil rights charges against Officer Darren Wilson in the death of Michael Brown in Ferguson.
- Similarly, on December 4, 2014, DOJ announced that its civil rights investigation into the Cleveland, Ohio, Division of Police had found a pattern or practice of unreasonable and unnecessary use of force. Consequently, DOJ and the city of Cleveland have committed

to develop a court-enforceable agreement that will include an independent monitor to oversee necessary reforms.

10. DOJ has taken similar action in the past five years, making public findings of discriminatory policing and/or excessive force and working toward long-term solutions in 14 states and jurisdictions. DOJ is also working to strengthen police-community relations. For example, in Ferguson, Missouri, in addition to opening civil and criminal investigations after the August 2014 shooting of Michael Brown, DOJ sent mediators to create a dialogue between police, city officials, and residents to reduce tension in the community. In addition, DOJ is involved in a voluntary, independent, and objective assessment of the St. Louis County (Missouri) Police Department, looking at training, use of force, handling mass demonstrations, and other areas where reform may be needed.

11. The following are examples of compensation or other effective remedy for victims of abuse pursued at the state level since the Committee's 110th session:

California:

- In July 2014, the Board of Trustees of California State University, San Bernardino agreed to pay \$2.5 million to the parents of Bartholomew Williams to settle a wrongful death/excessive force suit. Williams, a graduate student at the university, was shot five times during a confrontation with police.
- In December 2014, a jury awarded \$8 million to the family of Darren Burley, who died 12 days after a struggle with Los Angeles County Sheriff's deputies. The deputies acknowledged that they had punched Burley and used a stun gun on him in attempting to handcuff him.

Colorado:

- In October 2014, a jury awarded \$4.65 million to the family of Marvin Booker, who died after being shocked by a Taser and placed in a sleeper hold by Denver jail officers.

New Jersey:

- In June 2014, the Borough of Penns Grove and Carneys Point Township agreed to pay \$2 million to the family of MoShowon Leach to settle a lawsuit alleging wrongful death and

use of excessive force. The lawsuit claimed that police officers choked Leach to death while attempting to arrest him.

New York:

- In July 2014, New York City agreed to pay \$2.75 million to the family of Ronald Spear to settle a lawsuit alleging that Rikers Island corrections officers beat Spear in retaliation for making complaints about his medical care. Spear died after suffering “blunt force trauma” to the head.
- In January 2015, New York City agreed to pay \$3.9 million to the family of Ramarley Graham, who died after being chased by an officer and shot inside his home.

Ohio:

- In November 2014, the city of Cleveland agreed to pay \$1.5 million each to the families of Timothy Russell and Malissa Williams, who died after a car chase during which police fired more than 100 shots at Russell’s vehicle.

12. Command and Participant Responsibility: The Uniform Code of Military Justice, 10 U.S.C. § 877, Article 77, provides that “Any person punishable under this chapter who (1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or (2) causes an act to be done which if directly performed by him would be punishable by this chapter; is a principal.” Although U.S. federal criminal law does not generally encompass the doctrine of command responsibility *per se*, DOJ can rely on conspiracy and aiding and abetting statutes to reach senior officials. Comparable state-level criminal law provisions also address conspiracy and participation offenses.

13. With respect to accountability for legal advice, the conduct of two senior DOJ officials in giving legal advice that justified the use of certain “enhanced interrogation techniques” following the 9/11 attacks was reviewed by an Associate Deputy Attorney General, a longtime career DOJ official. In a 69-page January 5, 2010 memorandum subsequently released publicly with limited redactions, he found that they had narrowly construed the torture statute, often failed to expose countervailing arguments, and overstated the certainty of their conclusions. He concluded that although they had exercised poor judgment, the evidence did not establish that they had engaged in professional misconduct.

14. Senate Select Committee on Intelligence Report: On December 9, 2014, the Senate Select Committee on Intelligence released its Findings and Conclusions and an Executive Summary of its Study of the CIA's former Detention and Interrogation Program. Upon the request of the Committee and in the interest of transparency, these documents, totaling over 500 pages, were declassified with minimal redactions to protect national security, leaving 93 percent of the released portion of the Study declassified. Harsh interrogation techniques highlighted in that Report are not representative of how the United States deals with the threat of terrorism today, and are not consistent with our values. The United States supports transparency and has taken steps to ensure that it never resorts to the use of those techniques again. *See* <http://www.whitehouse.gov/the-press-office/2014/12/09/statement-president-report-senate-select-committee-intelligence>.

Response to Committee Recommendation ¶ 10 - Gun violence:

15. The United States acknowledges that gun violence continues to be a serious concern in some communities across the nation. The Administration continues to support common-sense legislation to reduce the incidence of gun crime, including legislation that would close loopholes in the background check system and increase the number of firearms transactions subject to criminal background checks, create a specific firearms trafficking offense under federal law, restore and strengthen a federal assault weapons ban, and crack down on gun trafficking.

16. Federal Gun Control: In the absence of such legislation, as the United States reported during the Committee's 110th session, the Administration has taken a number of executive actions designed to improve background checks and keep the most dangerous firearms out of the wrong hands, while continuing to push for other measures that require congressional action. On January 16, 2013, the President unveiled his plan to reduce gun violence, which included 23 executive actions. *See* President's plan entitled "Now is the Time" at http://www.whitehouse.gov/sites/default/files/docs/wh_now_is_the_time_full.pdf.

17. In November 2013 the Administration announced that it had completed or made significant progress on all 23 executive actions. *See* Progress Report on the President's Executive Actions to Reduce Gun Violence, November 2013 at

http://www.whitehouse.gov/sites/default/files/docs/november_exec_actions_progress_report_final.pdf.

18. The Administration has also announced additional actions. *See* White House Fact Sheet: Strengthening the Federal Background Check System to Keep Guns out of Potentially Dangerous Hands, January 3, 2014 at <http://www.whitehouse.gov/the-press-office/2014/01/03/fact-sheet-strengthening-federal-background-check-system-keep-guns-out-p>.

19. Guns and Domestic Violence: With respect to the Domestic Violence Offender Gun Ban, as amended and codified under 18 USC § 922(g)(9) – known as the “Lautenberg amendment” – the United States reported to the Committee in March 2014 that DOJ had reviewed the guidelines for prosecutors with a view to ensuring the strict enforcement of the law banning persons convicted of misdemeanor crimes of domestic violence from owning firearms, in addition to enforcement of weapons legislation in general. DOJ’s Bureau of Alcohol, Tobacco, Firearms and Explosives has primary investigative responsibility for such cases. United States Attorneys’ Offices also work with state and local law enforcement to establish guidelines for handling these cases, which often arise in emergency situations, such as when a local officer responds to a domestic complaint and learns that a firearm is present and that one of the parties is prohibited to have the firearm under this statute. *See* http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm01117.htm.

20. The U.S. Supreme Court recently interpreted the federal firearms prohibition in *United States v. Castleman*, 134 S.Ct.1405 (2014), upholding the federal law that makes it a crime for people convicted of misdemeanor domestic violence offenses, however minor, to possess guns. This decision addressed an important legal hurdle that had impeded recent prosecutions under § 922(g)(9). *See* <https://www.whitehouse.gov/blog/2014/03/28/supreme-court-decision-us-v-castleman-will-save-womens-lives>.

21. Stand Your Ground: Attorney General Holder said in 2013 that “[I]t’s time to question laws that senselessly expand the concept of self-defense and sow dangerous conflict in our neighborhoods. These laws try to fix something that was never broken. There has always been a legal defense for using deadly force if – and the ‘if’ is important – no safe retreat is available.” *See* <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130716.html>.

22. As the United States clarified during the Committee's 110th session, the vast majority of criminal laws in the United States are enacted by state legislatures and enforced at the state and local levels. Although some states have adopted such laws, these laws are not uniform in their text or application and there has been limited information available on disparities in their application. Although some law enforcement groups have expressed concern that Stand Your Ground laws may have unintended consequences and inhibit the ability of law enforcement and prosecutors to hold violent criminals fully accountable for their acts, DOJ remains steadfast in its commitment to prosecute violations of federal criminal civil rights laws.

23. The United States Commission on Civil Rights has undertaken an investigation of the civil rights implications of Stand Your Ground laws with the focus of determining whether racial disparities exist in their application or enforcement. That investigation is ongoing. On October 17, 2014, the Commission conducted a public hearing involving a national panel of experts, which focused on "whether there is possible racial bias in the assertion, investigation and/or enforcement of justifiable homicide laws in states with Stand Your Ground provisions." The Commission is expected to issue a final report to the President and Congress concerning its findings, although no date has been set for the release of that report.

Response to Committee Recommendation ¶ 21 - Detainees at Guantánamo Bay

24. We preface this response by recalling the longstanding position of the United States that obligations under the Covenant apply only with respect to individuals who are both within the territory of a State Party and within its jurisdiction. The United States continues to have legal authority under the law of war to detain Guantanamo detainees until the end of hostilities, consistent with U.S. law and applicable international law, but it has elected, as a policy matter, to ensure that it holds them no longer than necessary to mitigate the threat they pose.

25. Closure of Guantanamo Bay Detention Facility: President Obama has repeatedly reaffirmed his commitment to close the Guantanamo Bay detention facility, most recently during his State of the Union address to the Congress on January 20, 2015 (*available at* <http://www.whitehouse.gov/the-press-office/2015/01/20/remarks-president-state-union-address-january-20-2015>). He has emphasized that the continued operation of the facility weakens U.S. national security by draining resources, damaging relationships with key allies and partners, and

emboldening violent extremists. See http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-On-National-Security-5-21-09/. The United States is taking all feasible steps to reduce the detainee population at Guantanamo and to close the detention facility in a responsible manner that protects our national security.

26. Transfers: More than 80 percent of those at one time held at the Guantanamo Bay detention facility have been repatriated or resettled, including all detainees subject to court orders directing their release. Of the 242 detainees at Guantanamo at the beginning of this Administration, 116 have been transferred out of the facility, including 27 after adoption of the Committee's recommendations on March 26, 2014. This includes 12 Yemenis resettled in third countries since November 2014. More detainees were transferred out of the facility in 2014 than in any year since 2009, and the detainee population now stands at its lowest since 2002. Of the 122 who remain at Guantanamo, 56 are designated for transfer. Of the 66 others, ten are currently facing charges, awaiting sentencing, or serving criminal sentences, and the remaining 56 are eligible for review by the Periodic Review Board.

27. Periodic Review: The Periodic Review Board (PRB) process commenced in October 2013. The PRB is a discretionary, administrative interagency process to review whether continued detention of certain individuals detained at Guantanamo remains necessary to protect against a continuing significant threat to the security of the United States. As of March 24, 2015, the PRB had conducted 14 full hearings and three six-month file reviews, in which detainees participated with assistance from their personal representatives and, in some cases, private counsel. The PRB has determined that continued detention of eight of the detainees reviewed is no longer necessary to protect against a continuing significant threat to the United States. Two of these detainees were subsequently transferred to their countries of origin and the remaining six are eligible for transfer subject to appropriate security assurances and consistent with our humane transfer policy.

28. Afghanistan: As of December 10, 2014, the Department of Defense no longer operates detention facilities in Afghanistan.

29. Criminal Prosecutions: The United States remains of the view that in our efforts to protect our national security, both military commissions and federal courts can, depending on the

circumstances of the specific case, provide tools that are both grounded in applicable law and effective. However, U.S. law currently precludes transfer of detainees from Guantanamo for prosecution in the United States.

30. As further explained by the U.S. delegation during the Committee's 110th session, all current military commission proceedings at Guantanamo incorporate fundamental procedural guarantees that meet or exceed the fair trial safeguards required by Common Article 3 and other applicable law, and are further consistent with those in Additional Protocol II of the 1949 Geneva Conventions. The 2009 Military Commissions Act also provides for the right to appeal final judgments rendered by a military commission to the U.S. Court of Military Commissions Review (CMCR). The detainee has a right to appeal that CMCR decision to the U.S. Court of Appeals for the District of Columbia Circuit and then the United States Supreme Court, both federal civilian courts consisting of life-tenured judges.

31. The United States is committed to ensuring the transparency of military commission proceedings. To that end, proceedings are now transmitted via video feed to locations at Guantanamo Bay and in the United States, so that the press and the public can view them, with a 40-second delay to protect against the disclosure of classified information. Court transcripts, filings, and other materials are also available to the public online via the Office of Military Commissions website.

32. There are no current plans to end prosecutions by military commissions. Since the Committee issued its recommendations in March 2014, the military commissions convened to try the defendants charged with the attacks on the USS COLE and on the United States on September 11, 2001 have continued with pretrial litigation. In each case more than 300 motions have been filed by the defendants challenging the structure of the commissions and the admissibility of evidence at trial, and presenting Constitutional questions, among other matters. On June 2, 2014, another case was referred to trial by military commission, against Iraqi citizen, Abd al Hadi al-Iraqi. The charges against al Hadi al-Iraqi include: denying quarter, attacking protected property, perfidy, attempted perfidy, and conspiracy. This case was referred to a commission that is not authorized to issue a capital sentence following a guilty verdict. A mid-level al Qaeda member convicted of a facilitating role in a terrorist bombing in Al Mukalla harbor of Yemen in 2002 will be sentenced between now and 2016 under a plea agreement.

Another mid-level al Qaeda member convicted of a facilitating role in a terrorist bombing in Jakarta, Indonesia in 2003 will be sentenced by early next year under a plea agreement that sets the remaining time of confinement at an additional 15 to 19 years. The explosion in Jakarta killed 11 people and injured more than 80 others, with U.S. citizens among the injured.

Response to Committee Recommendation ¶ 22 - National Security Agency surveillance

33. Measures to Comply with Article 17 and Ensure That Any Interference is Authorized by Appropriate Laws and Complies with Legal Obligations: The United States takes extensive measures to ensure that its surveillance activities, irrespective of the context or purpose, comport with its domestic law and international legal obligations, including those with respect to Article 17 of the Covenant. The right to protection of the law from arbitrary or unlawful interference with privacy, as enshrined in Article 17, is protected under the U.S. Constitution and U.S. laws. The United States understands this requirement to mean that, to be consistent with Article 17, an interference with privacy must be in accordance with transparent laws and must not be arbitrary. The Committee's recommendation implies that an interference under Article 17 has to be essential or necessary and be proportionate to achieve a legitimate objective. The United States notes that these legal concepts are derived from certain regional jurisprudence, are not broadly accepted internationally, go beyond that which is required by the text of Article 17, and are not supported by the travaux of the treaty. The United States again asserts its longstanding position that obligations under the Covenant apply only with respect to individuals who are both within the territory of the State Party and within its jurisdiction.

34. As explained by the U.S. delegation during the Committee's 110th session, our intelligence activities are authorized pursuant to a rule of law framework whereby statutes and other authorities established through democratic institutions govern our activities. U.S. intelligence collection programs and activities are subject to stringent and multilayered oversight mechanisms; all of the collection activities of U.S. intelligence agencies are carried out pursuant to valid foreign intelligence or counterintelligence purposes; we do not collect intelligence to suppress dissent, to provide a competitive advantage to U.S. companies or business sectors commercially, or to disadvantage any person on the basis of categories such as ethnicity, race, gender, sexual orientation, or religious belief. For detailed information on oversight and safeguards, please see our previous submissions to the Committee (¶¶ 321-335 of the Fourth

Periodic Report and LOIR ¶¶ 115-120), as well as our 2014 submission to the Office of the High Commissioner on Human Rights on privacy in the digital age (*available at* <http://www.ohchr.org/Documents/Issues/Privacy/United%20States.pdf>).

35. Recent Reforms: The United States has extensive and effective oversight to prevent abuse. Nevertheless, over the past 18 months, the United States has undertaken a comprehensive effort to examine and enhance the privacy and civil liberty protections embedded in our signals intelligence activities. As part of this process, we have sought – and benefitted from – a broad cross-section of views, ideas, and recommendations from oversight bodies, advocacy organizations, private companies, and the general public, as well as from discussions with foreign partners. This effort has resulted in strengthened privacy protections, new limits on the collection and use of signals intelligence, and increased transparency. To follow up on the reforms announced by President Obama, including those in the January 2014 Presidential Policy Directive (PPD-28) on signals intelligence activities, the Director of National Intelligence released a report in February 2015 that highlights the reforms the U.S. government has taken with respect to its signals intelligence practices and reflects an ongoing commitment to greater transparency. *See* <http://icontherecord.tumblr.com/ppd-28/2015/overview>.

36. As part of these reforms, we have: required that signals intelligence collection be as tailored as feasible and limited our Intelligence Community's ability to use signals intelligence collected in bulk to six specific purposes; begun an annual Cabinet-level review of signals intelligence priorities and requirements in light of potential risks to national security interests and relationships abroad; and required each Intelligence Community element to update or issue new policies and procedures that implement safeguards for all personal information collected through signals intelligence, regardless of nationality or place of residence, consistent with technical capabilities and operational needs.

37. In the last 18 months, we have increased transparency by declassifying and publicly releasing an unprecedented amount of information about current programs, much of which relates to the government's use of authorities granted under the Foreign Intelligence Surveillance Act (FISA). We have published the first Intelligence Community Annual Transparency Report, disclosing statistics on the government's use of National Security Letters and FISA authorities. We have also declassified certain aggregate FISA data so that communications providers can

disclose to the public additional information about how they respond to requests they receive from the government. We recently issued Principles of Intelligence Transparency, which are being implemented to further enhance transparency while protecting intelligence sources and methods. The United States government has also established a senior working group to continue to identify ways the Intelligence Community can increase transparency without harming national security.

38. Retention of Information: PPD-28 makes clear that all persons have legitimate privacy interests in the handling of their personal information in the context of signals intelligence activities. To that end, the President directed the U.S. government to apply protections to the personal information of non-U.S. persons, regardless of nationality or where they reside, that are comparable to those applied to U.S. persons, consistent with national security. The PPD specifically directs that the personal information of non-U.S. persons shall be retained only if the retention of comparable information concerning U.S. persons would be permitted. All agencies within the Intelligence Community must delete the personal information of non-U.S. persons collected through signals intelligence five years after collection unless the information has been determined to be relevant to, among other things, an authorized foreign intelligence or counterintelligence purpose, or if the Director of National Intelligence determines, after considering the views of the Office of the Director of National Intelligence's Civil Liberties Protection Officer and agency privacy and civil liberty officials, that continued retention is in the interest of national security. This new retention requirement is similar to the requirements applicable to personal information about U.S. citizens.

39. Dissemination of Information: Intelligence Community elements have always disseminated intelligence information because it is relevant to foreign intelligence requirements. All agency policies implementing PPD-28 now explicitly require that information about a person not be disseminated solely because he or she is a non-U.S. person and the Office of the Director of National Intelligence has issued a revised directive to all Intelligence Community elements to reflect this requirement. Intelligence Community personnel are now specifically required to consider the privacy interests of non-U.S. persons when drafting and disseminating intelligence reports. In particular, signals intelligence information about the routine activities of a foreign person will not be disseminated by virtue of that fact alone unless it is otherwise responsive to an

authorized foreign intelligence requirement. *See*

<http://www.dni.gov/files/documents/ICD/ICD%20203%20Analytic%20Standards.pdf>.

40. Oversight and Compliance: Intelligence Community elements have always had strong training, oversight, and compliance programs to ensure the protection of privacy and civil liberties of U.S. persons. In response to PPD-28, Intelligence Community elements have added new training, oversight, and compliance requirements; developed mandatory training programs to ensure that intelligence officers know and understand their responsibility to protect the personal information of all people, regardless of nationality; added new oversight and compliance programs to ensure that these new rules are being followed properly, and now require the reporting of any significant compliance incident involving personal information, regardless of the person's nationality, to the Director of National Intelligence.