



DOMESTIC INVESTIGATIONS AND OPERATIONS GUIDE

CLASSIFIED APPENDIX G

**FEDERAL BUREAU OF INVESTIGATION
RELEASED OCTOBER 16, 2013**

This is a privileged document that cannot be released in whole or in part to persons or agencies outside the Federal Bureau of Investigation, nor can it be republished in whole or in part in any written form not containing this statement, including general use pamphlets, without the approval of the Director of the Federal Bureau of Investigation.

NOTICE OF SUPERSESSION AND UPDATE:

This document amends and supersedes the previous *Domestic Investigations and Operations Guide (DIOG) Classified Appendix G*, published October 15, 2011

Updated pages are denoted with "Version Dated: October 16, 2013"

CONTACT INFORMATION:

Questions or comments pertaining to the DIOG can be directed to:

The Corporate Policy Office (CPO) at
HQ_DIV00_CORPORATE_POLICY_OFFICE
or the Office of the General Counsel (OGC)

PRIVILEGED INFORMATION:

Any use of this document, including direct quotes or identifiable paraphrasing, will be marked with the following statement:

This is a privileged document that cannot be released in whole or in part to persons or agencies outside the Federal Bureau of Investigation, nor can it be republished in whole or in part in any written form not containing this statement, including general use pamphlets, without the approval of the Director of the Federal Bureau of Investigation.

This is a privileged document that cannot be released in whole or in part to persons or agencies outside the Federal Bureau of Investigation, nor can it be republished in whole or in part in any written form not containing this statement, including general use pamphlets, without the approval of the Director of the Federal Bureau of Investigation.

G.12 (U) NATIONAL SECURITY LETTERS FOR TELEPHONE TOLL RECORDS OF MEMBERS OF THE NEWS MEDIA OR NEWS ORGANIZATIONS

(S//NF) **Members of news media or news organizations:** An investigation of members of the news media or news organizations is a sensitive investigative matter (SIM). See DIOG Section 10 and Appendix G-7 for Sensitive Investigative Matters. A member of the news media or a news organization is defined in DIOG Section 10.1.2.2.5 and Appendix G.7.1.1. An investigation of a non-United States person (non-USPER) who otherwise meets the referenced definition is not a SIM if there is reason to believe that the person is a suspected or known intelligence officer or is affiliated with a news organization that is associated with a foreign intelligence service or otherwise is acting on behalf of a foreign power. An investigation of a non-USPER news organization is not a SIM if there is reason to believe the organization is affiliated with a foreign intelligence service or is otherwise acting on behalf of a foreign power.

(U) Department of Justice policy with regard to the issuance of subpoenas for telephone toll records of members of the news media is found at 28 C.F.R. § 50.10. The regulation concerns only grand jury subpoenas, not National Security Letters (NSLs) or administrative subpoenas. (The regulation requires Attorney General approval prior to the issuance of a grand jury subpoena for telephone toll records of a member of the news media, and when such a subpoena is issued, notice must be given to the news media member either before or soon after such records are obtained.) The following approval requirements and specific procedures apply for the issuance of an NSL for telephone toll records of members of the news media or news organizations.

(U//FOUO) **Approval requirements:** In addition to the approval requirements for NSLs set out in DIOG Section 18.6.6.3.3., an NSL seeking either (i) the telephone toll records of, or (ii) records of a third party that are believed likely to reveal communications with members of the news media or news organizations is subject to the following:

- A) (U//FOUO) If the NSL is seeking telephone toll records of an individual who is a member of the news media or a news organization and a purpose of the NSL is to identify confidential news media sources, the General Counsel and EAD-NSB, after consultation with the Assistant Attorney General for the National Security Division (AAG-NSD), must approve the NSL.
- B) (U//FOUO) If the NSL is seeking telephone toll records of an individual who is a member of the news media or news organization and the purpose of the NSL is something other than trying to identify confidential news media sources, the General Counsel and the EAD-NSB must approve the NSL.
- C) (U//FOUO) If the NSL is seeking telephone toll records of an individual who is not a member of the news media or news organization, but the records are likely to reveal communications with members of the news media or news organizations and a purpose of the NSL is to attempt to identify confidential news media sources, the General Counsel and the EAD-NSB must approve the NSL.
- D) (S//NF) If the NSL is seeking telephone toll records of an individual who is a member of the news media or news organization and who is (i) a suspected or known intelligence officer, (ii) affiliated with a news organization that is associated with a foreign intelligence service, or (iii) otherwise acting on behalf of a foreign power, there are no additional approval requirements other than those set out in DIOG Section 18.6.6.3.3, unless a purpose of the NSL is to seek to

identify confidential news media sources. If a purpose of the NSL is to seek to identify confidential news media sources of such a member of the media, the General Counsel and EAD-NSB must approve the NSL.

(U) **Specific Procedures:** The procedures for creating an NSL seeking either (i) the telephone toll records of, or (ii) records that may reveal communications with members of the news media or news organizations are the same as set out in DIOG Section 18.6.6.3.7. When drafting an NSL requiring the special approvals set forth above, the requesting field office must discuss in the EC that accompanies the NSL whether the investigation is seeking the records to identify confidential news media sources or records that may reveal communications with members of the news media or news organizations. If the substantive division concurs, it must forward the EC and NSL to OGC and EAD-NSB requesting approval for the issuance of the NSL.

(U) When consultation with the AAG- NSD is required for the issuance of an NSL, the operational division must submit the request for an NSL to the General Counsel with an LHM suitable for routing to the AAG-NSD.

(U) When General Counsel and EAD-NSB approval is required for issuance of an NSL, the operational division must, within 10 business days of receiving notice of General Counsel and EAD-NSB approval for the issuance of the NSL, forward an LHM to DOJ/NSD indicating the General Counsel and EAD-NSB approved issuance of the NSL.