



The Department of Defense Intelligence Oversight Program



Objectives

After viewing this presentation, you should be able to:

Identify the key directives guiding intelligence oversight.

Describe the components involved in intelligence activities.

Identify the reporting procedures for questionable intelligence activities.

Describe the IO inspection methodology.





Agenda

1. Intelligence Oversight (IO): Why We Have It
2. The DoD IO Community
3. Policies and Regulations
4. Reporting Questionable Intelligence Activities and Significant or Highly Sensitive Matters
5. Essentials for Successful Programs
6. Resources and Summary



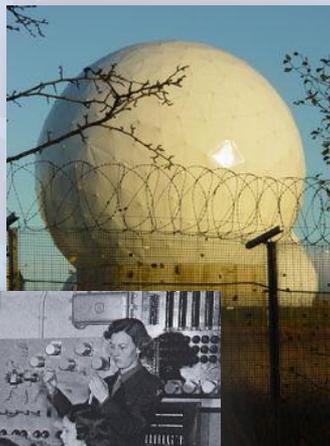


DoD SIOO

Intelligence Oversight: Why We Have It



History of Intelligence Oversight





Purpose

Enable DoD intelligence personnel to carry out their legitimate functions effectively while protecting the constitutional rights and privacy of **U.S. Persons.**



U.S. Person Defined

- U.S. citizens
- Lawful Permanent Residents (LPR)
- Certain unincorporated associations
- Corporations incorporated in the U.S.





Background

Executive Order 12333:

- Signed by President Reagan in 1981
- Validated by subsequent administrations
- Updated in 2008

Executive Order 12333

United States Intelligence Activities

(As amended by Executive Orders 13284 (2003), 13355 (2004) and 13470 (2008))

PREAMBLE

Timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence possible. For that purpose, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including the National Security Act of 1947, as amended, (Act) and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

PART 1 Goals, Directions, Duties, and Responsibilities with Respect to United States Intelligence Efforts

1.1 Goals. The United States intelligence effort shall provide the President, the National Security Council, and the Homeland Security Council with the necessary information on which to base decisions concerning the development and conduct of foreign, defense, and economic policies, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) All means, consistent with applicable Federal law and this order, and with full consideration of the rights of United States persons, shall be used to obtain reliable intelligence information to protect the United States and its interests.

(b) The United States Government has a solemn obligation, and shall continue in the conduct of intelligence activities under this order, to protect fully the legal rights of all United States persons, including freedoms, civil liberties, and privacy rights guaranteed by Federal law.

(c) Intelligence collection under this order should be guided by the need for information to respond to intelligence priorities set by the President.

(d) Special emphasis should be given to detecting and countering:

(1) Espionage and other threats and activities directed by foreign powers or their intelligence services against the United States and its interests;

(2) Threats to the United States and its interests from terrorism; and

(3) Threats to the United States and its interests from the development, possession, proliferation, or use of weapons of mass destruction.

(e) Special emphasis shall be given to the production of timely, accurate, and insightful reports, responsive to decisionmakers in the executive branch, that draw on all appropriate sources of information, including open source information, meet rigorous analytic standards, consider diverse analytic viewpoints, and accurately represent appropriate alternative views.

(f) State, local, and tribal governments are critical partners in securing and defending the United States from terrorism and other threats to the United States and its interests. Our national intelligence effort should take into account the responsibilities and requirements of State, local, and tribal governments and, as appropriate, private sector entities, when undertaking the collection and dissemination of information and intelligence to protect the United States.

(g) All departments and agencies have a responsibility to prepare and to provide intelligence in a manner that allows the full and free exchange of information, consistent with applicable law and presidential guidance.

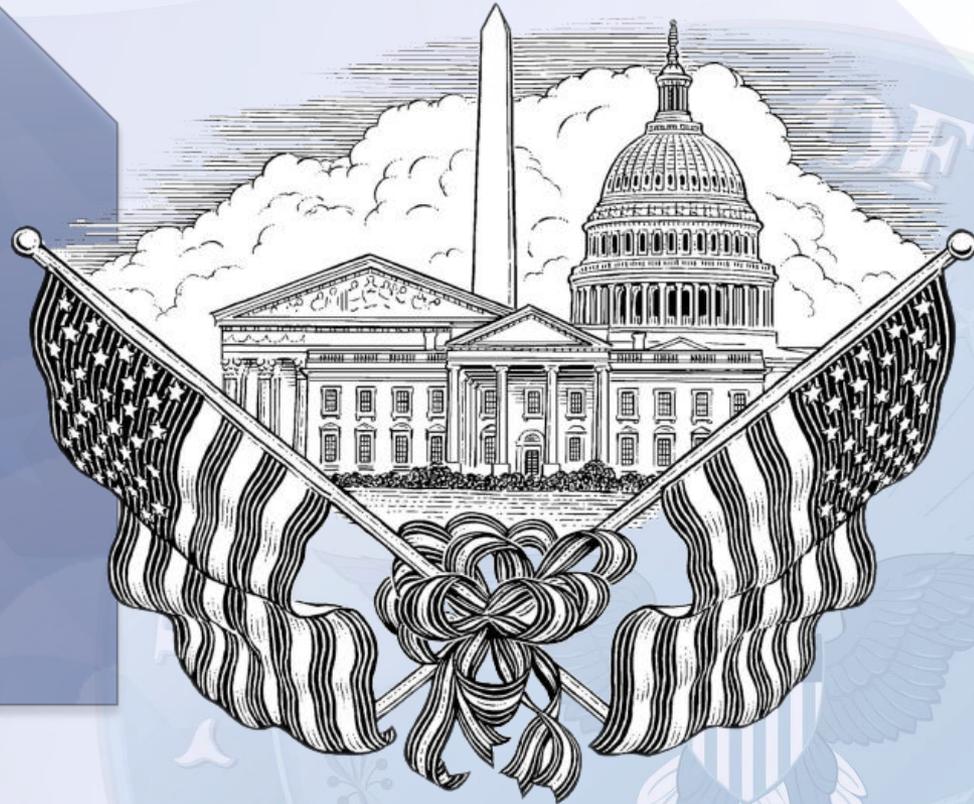
1.2 The National Security Council.

(a) Purpose. The National Security Council (NSC) shall act as the highest ranking executive branch entity that provides support to the President for review of, guidance for, and direction to the conduct of all foreign intelligence,



Intelligence Oversight in U.S.

- Congressional Oversight
- Other Government Agencies
- President's Intelligence Advisory Board and Intelligence Oversight Board





DoD SIOO

The DoD Intelligence Oversight Community



Principal Clients

- OSD
 - USD (I)
- Joint Staff
- Services
 - U.S. Army
 - U.S. Navy and U.S. Marine Corps
 - U.S. Air Force





Principal Clients, cont.

- The National Guard
 - Army National Guard
 - Air National Guard
- Agencies
 - National Security Agency
 - Defense Intelligence Agency
 - National Geospatial-Intelligence Agency
 - National Reconnaissance Office





Principal Clients, cont.

- Combatant Commands (COCOMS)





Shared Responsibility





Roles and Responsibilities

Directors or Commanders:

- Ensure an active program
- Designate appropriate officials
- Ensure appropriate training
- Provide protection from reprisal for reporting questionable activities
- Correct substantiated allegations





Roles and Responsibilities, cont.

IGs conduct IO inspections to ensure:

- Employees understand rules and responsibilities
- Reporting procedures exist
- Intelligence activities comply with policies and regulations
- JAG/GC are consulted about legalities





Roles and Responsibilities, cont.

JAGs and GCs are responsible for:

- Initial legal review of intelligence activities plans
- Continued monitoring of intelligence activities' legality





Roles and Responsibilities, cont.

Intelligence personnel are the first line of defense. They must:

- Know the standards and comply
- Report any:
 - Questionable intelligence activities
 - Significant or highly sensitive intelligence-related matters





Roles and Responsibilities, cont.

The DoD SIOO conducts inspections at select locations and is responsible for:

- Monitoring inquiries
- Reviewing findings
- Informing and advising appropriate OSD officials
- Reporting to Executive Branch and Congress



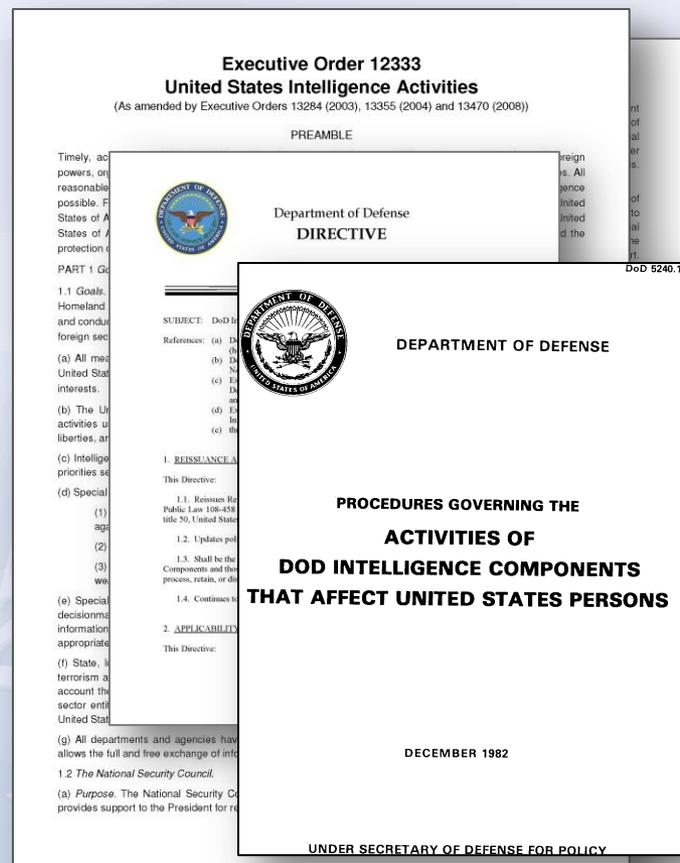
DoD SIOO

Intelligence Oversight Policies and Regulations



Key Orders, Directives, and Regulations

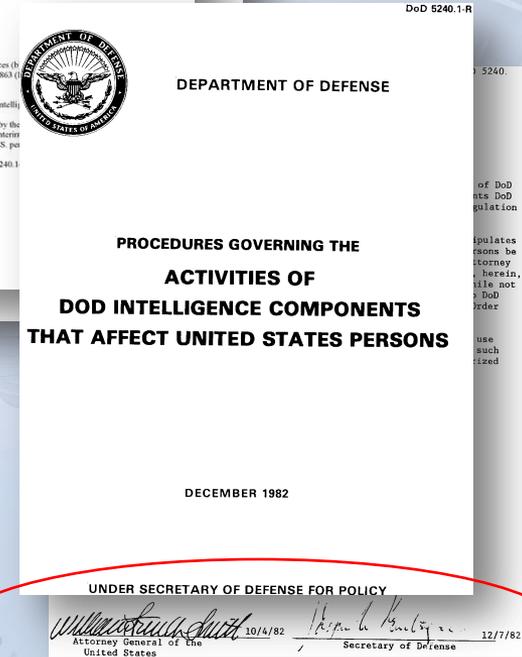
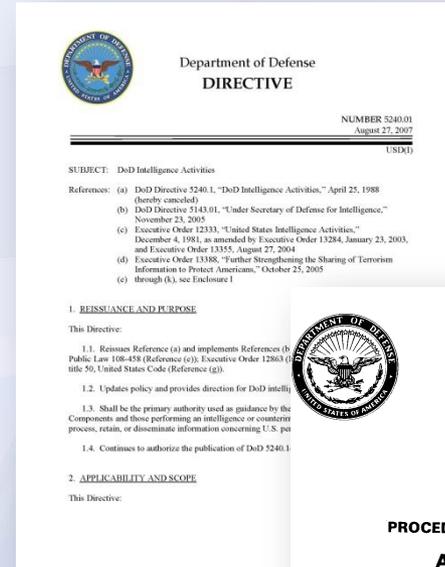
- Executive Order 12333
- DoD Directive 5240.01
- DoD 5240.1-R
 - Supplemented by DTM 08-052





DoD Baseline Documents: 5240.01 and 5240.1-R

- 5240.01
 - Establishes oversight policy
- 5240.1-R
 - Establishes the rules for conducting intelligence activities





Mission-Specific Policies and Regulations

- Joint Staff Regulations CJCSI 5901.01B
- Combatant Command Policies and Regulations
- Service and Agency Regulations
 - AR 381-10
 - SECNAV Instruction 3820.3E
 - SECNAV Instruction 5000.34
 - MCO 3800.2
 - Air Force Instruction 14-104
 - DIA Regulation 68-4
 - NGA Instruction NI 8900.4R5
 - NSA Internal Guidance



Training Continues in Part 2



The Department of Defense Intelligence Oversight Program

Part 2

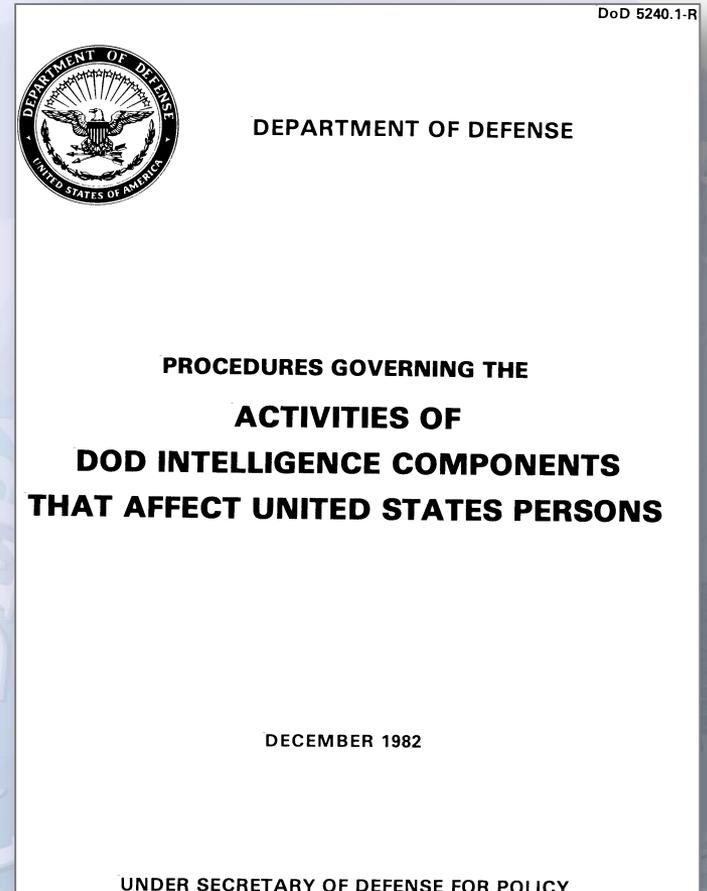


**Continued
From Part 1**



DoD 5240.1-R Procedures 1-4

1. Applicability
2. Collection
3. Retention
4. Dissemination





Procedure 1: Applicability

- Establishes to whom regulations apply:
 - DoD Intelligence components
 - Any organization or person engaged in intelligence or intelligence-related activities
- Establishes to whom regulations DO NOT apply:
 - Law enforcement components
- Requires compliance with all applicable policies and procedures



Procedure 2: Collection

Authorizes collection of information regarding U.S. persons only if:

- Necessary to conduct a function assigned to the collecting components
- Approved by authorized commander or director
- The nature of the collection falls within any of the 13 defined categories



Procedure 2: Collection, cont.

1. Information obtained with consent
2. Publicly available information
3. Foreign intelligence
4. Counterintelligence
5. Potential sources of assistance to intelligence activities
6. Protection of intelligence sources and methods
7. Physical security



Procedure 2: Collection, cont.

8. Personnel security
9. Communications security
10. Narcotics (international)
11. Threats to safety
12. Overhead reconnaissance
13. Administrative purposes



Kinds of Information Collected Since 9/11

Most prevalent sources of information:

1. Information obtained with consent
2. Publicly available information
3. Foreign intelligence
4. Counterintelligence
7. Physical security
11. Threats to safety

Require discernable foreign connection



Procedure 3: Retention

Authorizes retention of information regarding U.S. persons only if information was collected:

- Pursuant to Procedure 2
- Incidentally to an authorized collection
- For a temporary period not to exceed 90 days



Procedure 4: Dissemination

Authorizes dissemination of information regarding U.S. persons without consent only if:

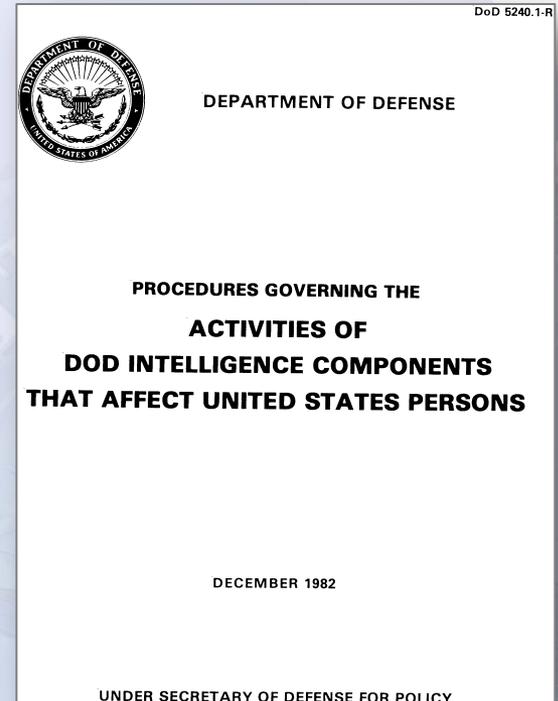
- Information was collected and retained under Procedures 2 and 3
- Recipient is reasonably believed to need such information and is a recognized party as defined by the procedure



DoD 5240.1-R: Procedures 5-9

Intrusive collection techniques:

5. Electronic surveillance
6. Concealed monitoring
7. Physical searches
8. Searches and examination of mail
9. Physical surveillance





DoD 5240.1-R: Procedures 10-13

10. Undisclosed participation in organizations
11. Contracting procedures
12. Assistance to law enforcement
13. Experimentation on human subjects



DoD 5240.1-R: Procedures 14 and 15

14. Employee Conduct

- Employees shall conduct intelligence activities in accordance to EO 12333 and DoD 5240.1-R
- Leaders shall ensure adherence to the oversight policies and regulations

15. Reporting Questionable Activities

- Such activities must be identified, evaluated, and reported



DoD SIOO

Reporting Questionable Intelligence Activities (QIA) and Significant or Highly Sensitive Matters (S/HS)



Who is Responsible?

- Commanders or Directors
- IGs
- JAGs and GCs
- Intelligence personnel
- DoD SIOO and DoD GC





Reportable Issues

- Questionable intelligence activities
- Significant or highly sensitive matters
- Crimes reported to the Attorney General
- Congressional testimony, notifications, reports, or briefings
 - Congressional committees
 - Individual members of Congress
 - Members of the Congressional staff



Questionable Intelligence Activities Defined

A questionable intelligence activity is one that may violate a law, Executive Order, DoD policy or regulation, or a service, agency, or command policy or regulation.

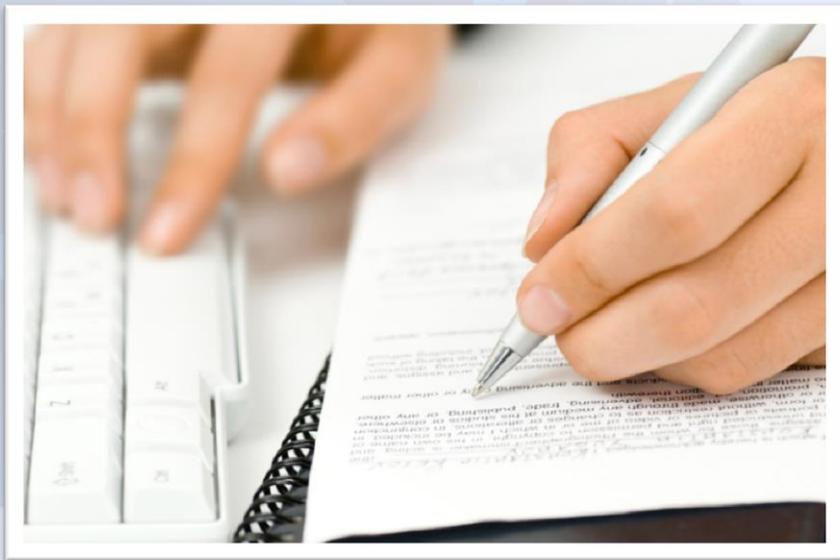


Significant or Highly Sensitive Activity Defined

A significant or highly sensitive activity is one that can impugn the reputation or integrity of the DoD intelligence community and/or challenge the propriety of an intelligence activity.



Reporting Format



The reporting format requires the following:

- ✓ Description of the incident
- ✓ Reference to policy, procedure, or regulation applicable to the activity
- ✓ Explanation of significant or highly sensitive incident
- ✓ Analysis of how or why incident occurred



Reporting Format, cont.

- Assessment of effect on national security, international relations, civil liberties, and privacy rights
- Remedial action taken or planned
- Actions taken if incident involves improper handling or compromise of classified information



Classified Information Whistleblowing

- **The DoD Inspector General provides a mechanism to report allegations of violations that involve classified information.**
 - **<http://www.dodig.smil.mil/hotline>**
- **DoDIG provides the following list of violations that should be reported to the DoD Hotline via the classified reporting mechanism:**
 - Breach of classified systems involving Special Access Programs (SAPs)
 - Nuclear Surety
 - Unauthorized Disclosures of classified information
 - Intelligence Community Whistleblower Protection Act (ICWPA)
 - Security violations/compromise
 - Intelligence Oversight
- **After seeking resolution locally, or if unable to do so, contact the DoDIG before taking any "self-help" action.**



Classified Information Whistleblowing

STOP

The DoDIG can only accept **UNCLASSIFIED** complaints on this website.

However, instructions for submitting a classified complaint are contained on this website. If you need information about how to submit a classified complaint, select one of the buttons below.

The Department of Defense Hotline - Classified Complaints

Select the Type of Classified Complaint You Would Like to Submit:

SECRET Complaint

Classified Complaints involving up to SECRET information.

TOP SECRET Complaint

Classified Complaints involving up to TOP SECRET information

ICWPA Complaint

Classified Complaints filed under the Intelligence Community Whistleblower Protection Act

Select an option to proceed to instructions

<http://www.dodig.smil.mil/hotline>

Instructions for submitting SECRET, TS, or ICWPA complaints are found on this site.



DoD SIOO

Essentials for Successful IO Programs



Attributes of the Best IO Programs

In the past, the best IO programs:

- Directly involved leadership
- Tailored training programs
- Integrated planning
- Involved legal advisors
- Established procedures for reporting and resolving IO issues





Kinds of Infractions

- Inadvertent non-compliance
 - ☑ Getting ahead of authorities
 - ☑ Lack of familiarity with regulations
 - ☑ Inappropriate open-source netsurfing
 - ☑ U.S. persons' data improperly included in reports
- Intentional non-compliance
 - ☑ Prisoner abuse by military intelligence personnel
 - ☑ Contract translator misconduct
 - ☑ Misuse of intelligence resources for personal gain



IO Inspections: Suggested Methodology

- Tailor the approach to the command
- Understand the command and control relationships
 - Review internal SOPs and policies
- Conduct organization and mission briefings
 - What are the ongoing or planned operations?
 - What supporting activities are ongoing or planned?
 - What controls are in place?
 - What oversight mechanisms are in place for compartmented programs?



IO Inspections: Suggested Methodology, cont.

- Interview senior leadership and all personnel involved in intelligence activities
- Examine pertinent documents and files
 - Hard copy files
 - Electronic files
 - Previous inspection reports and internal interviews
 - Training records
 - Product review
 - Records of reports and investigations under Procedure 15



What resources does DoD SIOO have?

Website:

<http://dodsioo.defense.gov>

DoD SIOO Reference
CD, Checklists,
& Training Materials





DoD SIOO

Summary



Review of Objectives

You should now be able to:

1. Identify the key directives guiding intelligence oversight
2. Describe the components involved in intelligence activities
3. Identify the reporting procedures for questionable intelligence activities
4. Describe the IO inspection methodology



Four-Bullet Summation

Intelligence oversight is:

- The command, control, and supervision of intelligence activities
- The rules for governing the professional conduct of intelligence professionals
- A program to protect privacy and civil liberties
- A system of ethics and accountability



DoD SIOO Website



Visit us on the web!

<http://dodsioo.defense.gov>



Other Ways to Contact DoD SIOO



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571-372-6363
Or 703-695-9542



Questions?