

# Annex 5 – DIGO Privacy rules



Senator the Hon Robert Hill  
Leader of the Government in the Senate  
Minister for Defence

**DEFENCE IMAGERY AND GEOSPATIAL ORGANISATION  
PRIVACY RULES**

I, Robert Murray Hill, Minister for Defence, being the Minister responsible for the Defence Imagery and Geospatial Organisation (DIGO), hereby make the following Rules, in accordance with section 15 of the *Intelligence Services Act 2001*, regulating the communication and retention by DIGO of intelligence information concerning Australian persons.

1. In making these Rules, I have had regard to the need to ensure that the privacy of Australian persons is preserved as far as is consistent with the proper performance by DIGO of its functions.
2. Before making these Rules, I have:
  - a. consulted the Director of DIGO, the Inspector-General of Intelligence and Security (IGIS) and the Attorney-General; and
  - b. provided a copy of the proposed Rules to the IGIS and to the Attorney-General.

**Communication**

3. DIGO may communicate intelligence information concerning an Australian person when:
  - a. the intelligence information relates to activities in which the involvement of that Australian person is already public knowledge; or
  - b. the intelligence information relates to activities in respect of which the Australian person is a representative of the Commonwealth or of a State or Territory in the normal course of official duties; or
  - c. the deletion of that part of the intelligence information concerning the Australian person would significantly diminish the utility of the information for the purpose of:
    - (1) maintaining Australia's national security;
    - (2) maintaining Australia's economic well-being;
    - (3) promoting Australia's foreign relations;
    - (4) preventing or investigating the commission of a serious crime;
    - (5) responding to an apparent threat to the safety of a person;

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- (6) responding to a serious risk to an Australian intelligence operation or operative; or
- d. the intelligence information relates to an Australian person who is acting for or on behalf of, or is suspected of acting for or on behalf of, a foreign power.

In all such cases, DIGO shall keep a record of the communication for inspection by the IGIS.

4. DIGO shall establish arrangements to ensure that communication of intelligence information concerning an Australian person is limited to those with a need to know in accordance with the Government's requirements.

#### Presumption Of Nationality

5. Where it is not clear whether an individual is an Australian person or not, the following presumptions shall apply unless evidence to the contrary is obtained:

- a. a person within Australia shall be presumed to be an Australian person; and
- b. a person outside Australia shall be presumed to be a non-Australian person, subject to consideration of any evidence as to nationality which may be contained in the relevant communication or the general context in which the intelligence was obtained.

6. If DIGO identifies that it has communicated intelligence information concerning an Australian person:

- a. contrary to these Rules; or
- b. because a presumption in paragraph 5 has been found to be incorrect, then DIGO shall immediately consult with the IGIS with a view to determining what appropriate action should be taken to protect the privacy of the Australian person.

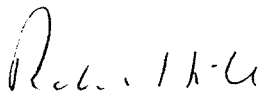
#### Retention

7. Intelligence information concerning Australian persons shall be retained by DIGO in a manner applicable to retention of information having a security classification of not less than *Secret*. Specifically, access to such information within DIGO shall be permitted only when there is a need to know the information for the proper performance of DIGO's functions.

#### Definitions

8. Expressions used in these Rules have the same meaning as in the *Intelligence Services Act 2001*.

Dated this 2<sup>nd</sup> day of November 2005



Robert Hill