



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

Secret

Serial 001505
13 August 1970

SECRET (UNCLASSIFIED UPON REMOVAL OF ENCLOSURE (4))

MEMORANDUM FOR THE ASSISTANT SECRETARY OF DEFENSE (ADMINISTRATION)

Subj: Congressional Inquiry Regarding Data Banks and Individual Privacy

Ref: (a) Assistant SecDef (Administration) Memorandum of 4 August 1970
(b) DOD Directive 1325.6 of 12 September 1969

Encl: (1) Copy - Naval Investigative Service "Essential Elements of Information (EEI)" of 14 May 1970
(2) Extract - Article 3-1602.1e, Naval Investigative Service "Manual for Investigations"
(3) Director, Naval Investigative Service letter of 26 September 1967
(4) CMC ltr Ser S060-099 of 10 August 1970, w/2 enclosures
(5) SecNav Memorandum for the General Counsel, Department of Defense of 24 March 1970

Reference (a) requested detailed information concerning Department of the Navy memoranda, orders, directives, regulations, etc. relating to the matters cited in paragraphs 5 and 6 of Senator Ervin's letter of July 20, 1970 to the Secretary of Defense.

The short time allowed for a response to reference (a) has precluded a Department of Navy-wide survey to ascertain whether any naval activity has issued a directive similar to the Sheppard Air Force Base memorandum referred to by Senator Ervin. It is doubted, however, whether, except in the instances discussed in paragraph 3 et seq below, any such directives have been issued, since none has come to the attention of the Assistant Chief of Naval Operations, Intelligence, the staff official having cognizance of counterintelligence and security matters throughout the Department of the Navy.

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The Naval Investigative Service, a component of the Naval Intelligence Command, is the Navy organization responsible for counterintelligence collection and operations. The collection mission of the Naval Investigative Service would embrace any matters that might threaten the integrity of the Department of the Navy: its personnel, physical facilities, and sensitive information. Pursuant to this responsibility, the Naval Investigative Service has issued collection guidance to its field activities. Pertinent material is provided in enclosures (1) through (3), which are further identified below:

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a. Enclosure (1) is an extract from a Confidential Naval Investigative Service Directive which en toto both lists "Essential Elements of Information", which are to be sought by field collectors, and the techniques for such collection. The techniques are sensitive and, thus, are not considered appropriate for release outside the Executive Branch. The extract of the information elements has been graded "For Official Use Only" for the purposes of this correspondence. It will be noted that some numbered elements have not been included. The omissions relate to collection activities in foreign countries.

b. In addition to its collection responsibilities, the Naval Investigative Service investigates, for both administrative and court martial purposes, allegations of serious misconduct on the part of individuals subject to Naval jurisdiction. Enclosure (2), which is an excerpt from the governing directive on investigative operations, pertains to matters within the general subject area of interest to Senator Ervin. The policy statement underlying the operational guidance is provided as enclosure (3). (Enclosure (3) had been approved by the Secretary of the Navy prior to its promulgation.) The purpose of enclosures (2) and (3) is to preclude investigative (or "collection") activity when the matter at issue is an individual's legitimate expression of views on controversial matters of public policy or concern.

c. Enclosure (4) contains information concerning Marine Corps reporting and data banks. It should be noted that the Marine Corps reporting requirements relate to "incidents", as distinguished from reporting on individual persons under the Sheppard Air Force Base memorandum.

To some extent, the information elements listed in enclosures (1) and (4) would be required by an activity commander in carrying out his responsibilities under reference (b).

The information obtained through Naval Investigative Service collection and investigative activities is not stored in a computer data bank. An index, by subject name, is maintained in the Defense Central Index of Investigations. The automation of that Index is under development. The data itself is retained by the Naval Investigative Service in hard form (that is, in dossiers) and is available only to officials of the executive branch of the government having a particular requirement therefor.

The general question of Naval participation in "Intelligence Collection Activities involving civilians", was addressed in an earlier Memorandum to the General Counsel of DOD. A copy of that Memorandum

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is supplied herewith, for convenience, as enclosure (5). Senator Ervin has asked for copies of the directives, statutes, etc., on which DOD information collection activities are based. Since the fundamental authority for all DOD activities lies in various statutes equally applicable to all DOD activities, it is recommended that any statutory citations be prepared by your office or the General Counsel. Enclosure (5) hereto cites two non-statutory authorities. As will be noted, one is an Executive Memorandum of 1939. The other is an interagency agreement, affecting the interests of the Department of Justice as well as those of the military departments. If it is decided that these documents should be provided to Senator Ervin, it is believed that the necessary coordination with non-DOD agencies should be centrally handled at the OSD level.

JAMES D. HITTLE
Assistant Secretary of the Navy (M&RA)

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NAVAL INVESTIGATIVE SERVICE ESSENTIAL
ELEMENTS OF INFORMATION (EEI), 14 MAY 1970

1. Provide names and identifying information on all organizations and persons known or suspected of engaging in sabotage against USN and USMC facilities. What are their plans, intentions, objectives, targets, modus operandi, capabilities, and activities?
2. Identify organizations and persons, governmental or non-governmental, known or suspected of engaging in espionage against the United States, particularly the U. S. Navy and Marine Corps. What are their plans, intentions, objectives, targets, modus operandi, capabilities and intentions?
3. What organizations and persons are known to be engaged in or suspected of subversive activity targeted against U. S. Navy and Marine Corps personnel? What are their plans, intentions, objectives, modus operandi, capabilities and activities?
4. What Communist Parties (including Party elements such as auxiliaries and fronts) national, international and local, are known or reportedly active? What are their plans, objectives, programs and capabilities against the U. S. Navy and Marine Corps? What are their organizational structures, finances, activities?
5. How, and to what extent are Communist, subversive, fascist, totalitarian, extremist or other "anti-establishment" organizations and groups using against the U. S. Navy and Marine Corps:
 - a. Legitimate organizations,
 - b. Dissident and resistance forces?
6. What political, economic, cultural, propaganda, or other activities are used by Communist countries or parties against the U. S. Navy and Marine Corps which may have an adverse affect on internal security and stability and the Navy and Marine Corps presence in non-Communist countries?

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Enclosure (1)

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7. Identify all intelligence, CI and security organizations and forces targeted against the U. S. Navy and Marine Corps. Describe their organizations and identify their leaders. Identify any such personnel known or suspected of being in CONUS. What are their plans, objectives, capabilities and modus operandi?

8. What are the capabilities and techniques of Communist and non-Communist countries, themselves or through third countries, to counter U. S. intelligence, CI and security efforts? How effective are they?

10. Identify the personnel in the U. S. Navy and Marine Corps susceptible to exploitation by hostile and subversive forces by virtue of moral factors, hostage situations or ideological considerations. Where stationed? What degree of access to classified matters?

11. Identify persons and organizations engaging or planning to engage in harassment of or threats to families or relatives of USN/Marine Corps personnel.

12. Identify the organizations and personnel, Communist or other, in the maritime industry, including MSTs, whose objectives and activities are adverse to those of U. S. Navy and Marine Corps. What are their plans, intentions and capabilities?

14. Report information on the clandestine introduction into the United States, or plans therefor, of foreign nationals, nuclear, chemical or biological weapons.

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Extract from NIS MANUAL FOR INVESTIGATIONS

ARTICLE 3-1602.1e

Inquiries concerning an individual will be limited to matters relating to his suitability and loyalty. The probing of a person's thoughts or beliefs, and questions about conduct which have no security implications, or which are not directly relevant to an investigation, are prohibited. In this area it should be understood that, except under the most unusual circumstances where there may be some direct relevance to the particular investigative subject matter, the following areas should not be inquired into: religious beliefs and affiliations, beliefs and opinions regarding racial matters, political beliefs and affiliations of a non-subversive nature, inquiries relating to union membership, fraternal affiliations or the constitutionality or wisdom of legislative policies. When such inquiries have no direct relevance to the purpose of the investigation, they will be considered unwarranted invasions of an individual's privacy. Frequently investigations are conducted on persons whose views might be considered controversial because of criticism leveled at U. S. foreign or domestic policies. Such investigations are not authorized when the predication for the investigation is the mere expression of views in opposition to official U. S. Policy. It should be noted however, that such controversial expressions are often coupled with a suspected violation of law or possibly Subversive or Seditious activity. When these acts are present they will serve as the basis for investigation. When such investigations are considered appropriate, discretion should be exercised by the Agent to guard against giving the appearance that the individual's constitutionally protected right of free speech is being infringed upon. Interviews should be conducted in such a manner that interviewee is not given the impression the controversial views of the Subject of the investigation are being scrutinized by a U. S. government agency.

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Date: 2/15/94 Unit: N/C 522

Enclosure (2)

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NAVAL INVESTIGATIVE SERVICE
HOFFMAN BUILDING
301 TAYLOR DRIVE
ALEXANDRIA, VIRGINIA 22314

IN REPLY REFER TO

NIS-00/bjs

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Ser 6213

26 SEP 1967

From: Director, Naval Investigative Service
To: Distribution List

Subj: Investigation of individuals who express controversial views

1. An intensive investigation by a Naval Investigative Service Office of an inactive (stand-by) reservist who had been quite vocal in his opposition to the U. S. military involvement in Viet Nam has recently come to my attention. This investigation has required consideration at the Secretarial level.
2. In this case, the individual's actions had indicated a possibility that he might be seeking to exploit U. S. personnel, who had been wounded in Viet Nam, in the advocacy of his views. I consider that the Commanding Officer of the NAVINVSERVO involved, following declination of jurisdiction by the FBI, acted properly in initiating an inquiry to determine whether the subject's actions were compatible with his reserve affiliation and responsibilities. Nevertheless, the case highlights the need for prudence and judgment in making determinations as to whether, and to what extent, the Naval Investigative Service will conduct an investigation of personnel within the Naval Establishment whose views on U. S. policy, foreign or domestic, might be considered controversial.
3. One of the bulwarks of our liberty, one of the institutions we are all sworn to defend, is the right of free speech enunciated in the First Amendment to the Constitution. The careful balancing of this right, which is not unlimited, with the inherent requirements of a lawfully constituted government to act to ensure its preservation and integrity, is not always easy. Within the context of the mission of the Naval Investigative Service, we must be mindful of both this cherished individual right, and the right and responsibility of the Navy to maintain discipline and security as part of the effort to insure its readiness to fulfill its mission in support of United States policy. Because of my concern with this problem I consider it appropriate at this time to reassert various guidelines which are to be followed by the Naval Investigative Service in these matters. These guidelines, which are essentially restatements of policy set forth in innumerable laws, executive orders, directives, etc., do not provide specific answers to every potential situation. Adherence to the letter and spirit of the guidelines, however, should assist the Naval Investigative Service in accomplishing its mission while avoiding any infringement on or interference with the proper exercise of free speech by individuals within the investigative jurisdiction of the NIS.

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Date: 21 SEP 98 Unit: NCIS 22

Enclosure (3)

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4. Guidelines

a. A Naval Investigative Service Office will not initiate any investigation, nor conduct an investigation at the request of competent authority, when the predication for the investigation is mere expression of views in opposition to official U. S. policy. In the event of inability to reconcile the desires of a requesting command with this injunction, the matter shall be referred to the Director, Naval Investigative Service.

b. An investigation within its jurisdiction may be initiated by a Naval Investigative Service Office, or conducted at the request of competent authority, when one or more of the following elements is present:

(1) If the views being expressed are conjoined with the alleged commission of an act which in itself would be a violation of a statute, regulation, or directive. In such instances, the alleged act will be the predication of the investigation.

(2) If the views are expressed in such a mode or manner as to indicate the possibility of sedition. It is to be noted that under the U.C.M.J. and other Federal statutes, sedition involves the acting in concert with another or others in opposition to lawful civil authority. Sedition is not present when an individual is acting alone.

(3) If the mode or manner of expression of views is in itself a violation of Article 88, U.C.M.J. Again, in such instances, the predication of the investigation shall be the alleged violation of the U.C.M.J. Full adherence to the explanation of what constitutes an offense under Article 88, U.C.M.J., as contained in the Manual for Courts-Martial, is enjoined in determining investigative authority.

(4) If an individual subject to the U.C.M.J. publicly utters statements or takes other actions with design to promote disloyalty or disaffection, of such a nature as to constitute a violation of Article 134, U.C.M.J.

In all investigations, full adherence to Article 3-1602.1(e) of the Manual for Investigations is mandatory.

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5. Nothing herein is intended to inhibit or preclude normal reporting of information on individuals of possible counterintelligence significance or on those individuals whose expressed controversial views may be adjudged to have a potential for embarrassment to the Department of the Navy.

6. This letter will be given maximum distribution within the Naval Investigative Service.

s/E. G. RIFENBURGH
E. G. RIFENBURGH

Distribution: (See NAVINVSERVINST 5601.1A)
Lists II and III

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SECRET (Unclassified Upon Removal of Enclosure (2)) 10 AUG 1970

From: Commandant of the Marine Corps
To: Chief of Naval Operations

Subj: Congressional Inquiry Regarding Data Banks and
Individual Privacy (U)

Ref: (a) ASD(A) memo dated 4 August 1970, same subject

Encl: (1) Marine Corps Information Concerning Data Banks
and Individual Privacy
(2) Extracts from CMC message 171500Z Nov69

Enclosures (1) and (2) contain information concerning
Marine Corps reporting and data banks which will assist
in preparing the Department of the Navy response to
reference (a).

J. R. CHAISSON
Lieutenant General, U. S. Marine Corps
Acting Chief of Staff, Headquarters Marine Corps

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Date: 21 SEP 98 Unit: NA 1572

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Enclosure (4)

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MARINE CORPS INFORMATION CONCERNING
DATA BANKS AND INDIVIDUAL PRIVACY

1. The Marine Corps maintains no data bank for storage of information relating to individuals, either military or civilian, who are involved in political activity directed either for or against governmental policies nor does the Marine Corps maintain data banks on political attitudes of individuals.

2. The Marine Corps does require a weekly report of incidents for the information of the Commandant and the Secretary of the Navy which are used as indicies of problems in the Marine Corps which affect the morale, the good order, and the discipline of the Marine Corps. These classified reports concerning potentially subversive and racially militant activities are closely held within Headquarters, Marine Corps. The content of the reports is restricted to activity by military personnel on federal military reservations or their immediate environs which could affect the command directly. The reports serve to give the Commandant and the Secretary of the Navy an understanding of the dimensions of current problems with which they are faced and which bear on the policies, procedures, performance, and efficiency of the Marine Corps. Further, the information is essential to the local commander in understanding the background to grievances of individuals who confront him at Request Mast; it is useful also to the various command advisory councils which coordinate policy matters relating to human relations.

3. Attached is a listing of requirements extracted from the message directing the reports. Authority for the submission of the reports is contained in Navy Department General Order Number 5.

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Date: *21 SEP 78* Unit: *NC 157*

Enclosure (1)

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EXTRACTS FROM CMC MESSAGE 171500Z NOV 1969

3. (S) Addressees will report all information surrounding racial and subversive activities in which Marine Corps personnel, units or installations are involved. The following requirements apply:

a. Weekly reports are required and must reach this Headquarters by 1600R each Friday.

b. Reports will be transmitted electrically.

c. Special handling instructions are: LIMDIS-FOR ACOFS, G-2-MCEO.

d. Reports will contain classification appropriate to content and special handling instructions.

e. Negative reports are required.

f. When information reported is derived from intelligence source an evaluation of the source and the credibility of the information shall be included.

g. Addressees will ensure that information reported to this Headquarters is coordinated with the local Naval Investigative Service Representative.

h. Each racial/subversive incident will be reported under one of the following headings:

(1) Peaceful Meetings or Demonstrations (racially oriented).

(2) Distribution and publications of racially militant propaganda (letters, leaflets, or newspapers).

(3) Contact with or membership in civilian racially militant groups.

(4) Assault by black groups.

(5) Assaults by white groups.

(6) Racial brawls.

(7) Racial confrontations (minor)

(8) Activities relating to internal subversive groups (non-racial).

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Enclosure (2)

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(9) Participation in civilian meetings, demonstrations and rallies (non-racial).

(10) Contact with or membership in civilian subversive organizations (non-racial).

i. Each report will contain a command assessment of the current threat to the installation from a racial/subversive standpoint.

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DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

Ser 1586P092
24 March 1970

MEMORANDUM FOR GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

Subj: Intelligence Collection Activities Involving
Civilians

Ref: (a) Gen Counsel DOD ltr of 9 Mar 1970
(b) Executive Memorandum of 26 Jun 1939 relating to
the Investigation of Espionage, Counterespionage
and Sabotage
(c) Delimitations Agreement of 23 Feb 1949

1. The following information is provided in response to
reference (a).

2. The Naval Intelligence Command, and specifically its
field activity the Naval Investigative Service, is the
component responsible for counterintelligence collection
matters within the Department of the Navy. The mission of
the Naval Intelligence Command includes the administration,
operation, and maintenance of an investigative service for
the Naval Establishment in order to satisfy the requirements
of references (b) and (c). Reference (b), implemented by
reference (c), conferred an exclusive investigative juris-
diction upon Naval Intelligence, the Federal Bureau of
Investigation, the Assistant Chief of Staff for Intelligence,
Department of the Army, and the Office of Special Investi-
gations, U.S. Air Force, in the following categories of
cases: actual or potential espionage, actual or potential
sabotage, and actual or suspected subversive activities.

3. In addition to the above mentioned categories, the
facilities of Naval Intelligence are utilized in the following
types of investigations, subject to appropriate regulations
and jurisdictional agreements: fraud, major criminal
offenses, personnel security investigations and loss or
compromise of classified material.

4. The Naval Investigative Service was established as the
Naval Intelligence component responsible for maintaining
and operating a world-wide organization to fulfill the afore-
mentioned investigative and counterintelligence responsi-

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Enclosure (5)

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bilities. The collection of intelligence is an inherent part of this mission, particularly as relates to the areas of espionage, sabotage and subversion..

5. In the area of domestic intelligence the Naval Investigative Service relies primarily on information furnished by the FBI pursuant, in large part, to reference (c), which provides for a liberal exchange of information between the signatories. By correspondence dating back to 1967, the Naval Investigative Service has asked FBI to limit such information, at the Headquarters level, to that having some Navy implications. Specifically it has been requested that distribution to Naval Investigative Service Headquarters of FBI reports and memoranda be generally limited to the following: a) monographs and special reports, b) incidents occurring on or directed at Navy and Marine Corps installations, c) incidents involving individuals of the Department of the Navy, and d) activities of groups and movements protesting against the Naval Establishment. These restrictions have not been placed on the exchange of information at the field level because the volume is relatively small. Information provided to the Naval Investigative Service is evaluated for actual or potential Naval counterintelligence significance, and either filed for future reference or destroyed. Information concerning subversive or potentially subversive organizations (including their key figures) is usually retained. The Naval Investigative Service does not undertake collection efforts on lawful civilian political activities. It does collect information on the formation of coffee houses, servicemen's unions and servicemen's newspapers whose activities pose a potential threat to the security of a Naval or Marine Corps facility, or to good order and discipline within a Naval or Marine Corps command.

6. Regarding demonstrations, the Armed Forces of the United States have a legitimate requirement for information concerning projected mass assemblages within this country, where there are indications of possible violence. The Constitution of the United States and a number of federal statutes empower the President of the United States to commit federal troops in support of state forces (under certain conditions) to quell serious civil disorders. Knowledge of certain characteristics of an assemblage can enable a commander, upon the direction of the President, to quiet any serious disorder which may arise, with minimum hazard to its participants, the citizenry at large and the forces committed. Navy has a responsibility to provide logistical support as needed to the Department of the Army when such forces have to be committed. Moreover,

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Naval Intelligence has a responsibility to apprise commanding officers of Naval and Marine Corps installations adjacent to projected mass assemblies, of potential threats to the security of these facilities or the well-being of their employees. Naval Intelligence is normally apprised of projected mass demonstrations by those local, state and federal law enforcement agencies which have primary responsibility in these matters. The objective of any military observation of mass demonstrations is not intended as repression or discouragement of political dissent, but rather for the purpose stated above.

7. Situations involving racial unrest or potential race riots within Naval or Marine Corps commands are monitored by the Naval Investigative Service to determine whether they are being instituted by outside subversive influences, and to assess the extent of any possible security threat to the command.

8. The Naval Investigative Service does not maintain a computerized data bank on any of the activities set forth herein.

9. In addition, it should be pointed out that the Naval Investigative Service does not initiate investigations, or conduct investigations at the request of Naval or Marine Corps commands, when the predication for investigation is the mere expression of views in opposition to official U.S. policy.

/s/ JAMES D. HITTLE
Assistant Secretary of the Navy
(Manpower & Reserve Affairs)

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