

DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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SECNAV INSTRUCTION 5430.13B

From: Secretary of the Navy
To: All Ships and Stations

Subj: Naval Intelligence Investigative Jurisdiction and Responsibilities

- Ref:
- (a) Executive Memorandum of 26 June 1939 relating to the Investigation of Espionage, Counterespionage, and Sabotage
 - (b) Delimitations Agreement of 23 February 1949
 - (c) OPNAV INSTRUCTION 5510.1B (Security Manual for Classified Information)
 - (d) Manual of the Judge Advocate General

1. Purpose. This Instruction defines and delimits the investigative jurisdiction and responsibilities of the Office of Naval Intelligence and field components thereof.

2. Cancellation. SECNAV Instruction 5430.13A of 10 August 1954 is hereby canceled.

3. Discussion. Prior instructions have set forth in relatively broad terms the investigative responsibilities of Naval Intelligence and have provided policy guidance for utilization by Naval Commands of Naval Intelligence investigative services. Changing requirements have altered Naval Intelligence responsibilities in recent years requiring a restatement and clarification of established policy. It remains the policy that Naval Intelligence investigative efforts shall be confined to those matters requiring the application of professional investigative techniques. This Instruction delineates the types of investigations which commanding officers are required to refer to Naval Intelligence and those which should be resolved through utilization of command resources.

4. Mission. The mission of the Office of Naval Intelligence includes the administration, operation, and maintenance of an investigative service for the Naval Establishment in order to accomplish the purposes set forth in references (a) and (b) and in this Instruction. Reference (a), implemented by reference (b), conferred an exclusive investigative jurisdiction upon the Office of Naval Intelligence, the Federal Bureau of Investigation of the Department of Justice, the Assistant Chief of Staff for Intelligence, G-2, General Staff, Department of the Army, and the Office of Special Investigations, United States Air Force, in the following categories of cases:

- a. Actual or potential espionage.
- b. Actual or potential sabotage.
- c. Actual or suspected subversive activities.

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ATTACHMENT 5 TO
ENCLOSURE (1) TO
MEMO
SECNAV LTR SER 01509

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... mentioned categories of cases, the facilities of Naval Intelligence shall be utilized in and limited to the following types of investigations:

a. *Fraud.* Matters pertaining to fraud against the Government in contract and pay and allowances matters, and such matters or activities as may be related or incidental thereto; conflicts of interest and other criminal irregularities in connection with appropriated or nonappropriated funds, and the procurement and disposition of Government property, provided that the matter involves military personnel of the Department of the Navy, or civilians under Naval control, or is a matter under Naval administrative control.

b. *Major Criminal Offenses.* Alleged major criminal offenses committed against a person, the United States Government or its property, or certain classes of personal property, as defined by law and regulation and in accordance with jurisdictional agreements. These offenses include but are not limited to: arson, assault, bribery, murder, manslaughter, rape, sodomy, larceny, robbery, burglary, housebreaking, forgery, maltreatment of prisoners, narcotics violations, postal violations, customs violations, currency violations, and other major violations of the Uniform Code of Military Justice, other Federal Statutes, and other statutes and regulations. Major offenses in this context are further defined in subparagraph 7b below.

c. *Personnel Security Investigations.* Background and other personnel security investigations within the jurisdiction of the Department of the Navy including those required by Executive Order 10450 and by existing Department of Defense and Department of the Navy directives. These extend to the investigation of military personnel of the Navy and Marine Corps, of civilian employees of the Department of the Navy, and of civilian employees of industrial facilities working upon classified contracts under Department of Defense security cognizance. Personnel security investigations of other categories of civilians (e.g., Red Cross employees, employees of non-appropriated fund activities) are also conducted in accordance with specific directives governing such individuals.

d. *Security.* Security investigations, including those involving the compromise, leakage, or unauthorized disclosure of classified information, when appropriate in accordance with reference (c). Also technical surveys of spaces in which highly classified information is discussed.

e. *Special.* Special investigations as required by the Department of the Navy, comprising those cases containing unusual circumstances or aspects of sensitivity which may require unusual techniques and the exercise of a high degree of discretion or the employment of extensive investigative resources.

6. Action

a. Any of the above listed offenses, violations, or matters arising within a command will be referred by the command concerned, without delay, to the cognizant field component of the Office of Naval Intelligence for appropriate action. Such action may consist of investigation by Naval Intelligence or, where appropriate, referral to another Government Department or agency having sole or concurrent investigative jurisdiction.

b. In cases where immediate referral to Naval Intelligence is not possible or practicable—for example, in the case of suspected sabotage in a ship at sea—the commanding officer should conduct such investigation as the circumstances indicate or as higher operational authority may direct. Such an investigation conducted by the commanding officer, however, should be preliminary to a later full investigation conducted by Naval Intelligence; and appropriate measures should be taken to insure the preservation of all possible evidence and to avoid any action which might tend to jeopardize or compromise investigative possibilities. The Director of Naval Intelligence or his field representatives may decline to undertake the investigation of any case which, in his judgement, would be fruitless and unproductive.

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a. Investigation of minor offenses and of matters not covered in paragraph 5 should be conducted by personnel attached to the command concerned, without recourse to the facilities of Naval Intelligence. Further, Naval Intelligence shall not normally be utilized in connection with offenses such as desertion, unauthorized absence, or other purely military offenses, such as sleeping on watch or missing movement. As a general rule, Naval Intelligence will not undertake the investigation of thefts of the personal property of individuals (referred to hereinafter as personal thefts) unless specifically requested by the command in the interest of morale, as when there has been a series of such thefts. With regard to the theft, malicious damaging or unlawful disposal of Government property or funds, it is mandatory that Naval Intelligence be advised in order that it may fulfill its liaison responsibilities with the Federal Bureau of Investigation. Where the theft, malicious damaging, or disposal is of a clearly minor nature however—such as when trivial amounts of food stuffs or other items of little intrinsic value are involved—and where only military personnel are suspected, command personnel should normally carry out any investigation without reference to Naval Intelligence. Where the estimated value of the allegedly stolen, maliciously damaged, or unlawfully disposed of Government property exceeds \$20, the case must be referred to Naval Intelligence. Damage to Government property, however minor, which appears to result from arson or from any method indicating sabotage, must be referred to Naval Intelligence.

b. In distinguishing between "major" and "minor" offenses, an appropriate guideline is the felony/misdemeanor division established in civilian law. The Manual for Courts Martial defines a felony as "any offense of a civil nature punishable under the authority of the Code by death or by confinement for a term exceeding one year" (paragraph 213d(6), MCM, 1951). By this standard the offenses listed in subparagraph 5b above are virtually all in the "major" category and must be referred to Naval Intelligence for investigation. Even those offenses which may not meet the felony test, however, must be referred to Naval Intelligence if they are of such a nature that the liaison responsibilities of Naval Intelligence require their referral by it to other Federal investigative agencies—as in the case of customs, postal, currency, and narcotics investigations. Because of the security implications involved, all incidents of perverted sexual behavior, such as homosexuality, exhibitionism, transvestism, etc., must be referred to Naval Intelligence even though the particular act may not meet the felony criterion set forth above. In the case of personnel with high level security clearances, well-founded allegations of conduct or conditions which might raise questions as to continued clearance eligibility, may also be referred to Naval Intelligence when the facts are not readily ascertainable by the command. Instances of this nature might be sudden and unexplained affluence, excessive indebtedness, excessive use of intoxicants, or compulsive gambling.

c. Questions regarding the priority of, availability of facilities for, or the propriety of conducting, any specific investigation requested shall be referred to the Director of Naval Intelligence or to his delegated representative for decision.

8. Other Naval Investigative Facilities

a. Nothing herein is to be construed as infringing upon, conflicting with, or restricting the investigative functions of the Naval Inspector General, the Inspector General of the Marine Corps, or of Courts of Inquiry or Investigations conducted pursuant to the Uniform Code of Military Justice or reference (d). The facilities of Naval Intelligence may be made available, when appropriate, to assist these latter investigative authorities in the performance of their official duties, provided such assistance may be rendered within the policies expressed in this Instruction. In this connection, attention is directed to the current provisions of reference (d) regarding occurrences which may require investigation both by Naval Intelligence and by a fact-finding body.

b. As a practical matter, when an incident first arises, it may not always be immediately obvious whether it is a major offense, a minor offense, or any offense at all, or whether it is within the

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other categories or investigations properly referable to Naval Intelligence. Since incidents involving offenses or potential offenses will usually come to the attention of command personnel first, it is appropriate that the command take certain preliminary investigative steps prior to notification of Naval Intelligence, or before it is possible to make a determination that Naval Intelligence need be notified. Such preliminary steps may include (1) the apprehension of suspects, (2) isolating and safeguarding an affected area, (3) preservation of any physical evidence, (4) procuring names and addresses of witnesses, (5) fully noting matters or conditions which may change before the arrival of ONI agents, such as weather, visibility, odors, the position and conditions of injured persons who may have been moved, etc., and (6) reporting all important matters and observations to the Naval Intelligence agent as soon as he arrives. Extreme care must be taken not to jeopardize or compromise any investigative possibilities which might be further pursued by Naval Intelligence.

c. Certain instances will also occur which, though apparently related to the categories enumerated in paragraph 5, are susceptible to administrative solution within the command and do not require the application of professional investigative techniques. Within this interpretation are those matters which might be resolved by a fact-finding body, an informal inquiry, or administrative audit. Incidents which are not necessarily connected with criminal activity, but which might have resulted, for example, from accident, negligence, incompetency, improper accounting procedues or the intervention of forces of nature, are matters which fall in this category.

d. Command-conducted investigations shall be limited to minor offenses and offenses of a purely military character not placed under Naval Intelligence jurisdiction by this Instruction. They shall be confined generally to matters directly involving command personnel and occurring within, or in the vicinity of, the Naval or Marine Corps activity. Off-base investigative activities in such cases shall be restricted to a minimum and shall extend only to specific occurrences in which the commander concerned has direct official interest. This limitation is not intended to restrict or interfere with normal Shore Patrol functions. Command investigative personnel, military or civilian, shall not be utilized to augment or assist civil law enforcement agencies on a regular or scheduled basis, although cooperation not inconsistent with this Instruction should always be extended.

e. Enlisted personnel assigned to local investigative duties shall not wear civilian clothing routinely, although the wearing thereof may be authorized in specific and unusual cases. The carrying of concealed weapons by such personnel shall be authorized only in specific cases where a demonstrable need exists, and then only in conformity with existing law and regulation.

f. Polygraph examinations, technical surveillance measures, and other investigative techniques of an unusual or sophisticated nature are to be employed only under regulations issued by the Director of Naval Intelligence, or by higher authority.

9. Reports of Investigations by Command Personnel. Copies of reports of all criminal/security-type investigations conducted by provost marshals, station detectives, Shore Patrol investigators, or other command security personnel shall be furnished to the local Naval Intelligence component, even though such investigations are restricted to minor matters—such as personal thefts—as indicated above. This refers only to matters in which some substantive investigation has been performed on well-founded allegations, and does not include reports involving purely military offenses, nor, e.g., routine Master at Arms reports or Shore Patrol reports relative to drunkenness, disorderliness, etc. Proper compliance will insure that a record of all pertinent incidents will reach the Navy's central repository of criminal/security-type investigative files, i.e., the Office of Naval Intelligence. A later file check on a different matter, for example, a National Agency Check, would thus bring out information which might otherwise not be disclosed. The completeness of Naval Intelligence files has a direct bearing on the security of the Naval Establishment.

10. Liaison With Other Federal Agencies. Matters which may be of investigative interest to other Federal agencies—such as the Federal Bureau of Investigation, enforcement

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agencies of the Treasury Department, Postal Inspectors, the Intelligence Corps and Military Police Corps or Office of the Provost Marshal General of the Army, or the Office of Special Investigations of the Air Force—shall be referred to the Director or Naval Intelligence or his field representative as the established liaison between the Department of the Navy and such agencies. Commanding officers will require their personnel to follow this procedure except where special arrangements for emergency situations have been made with the approval of Naval Intelligence.

11. Credentials. Naval Intelligence representatives carry credentials accrediting them to conduct investigations of official concern to the Naval Establishment. These credentials designate the holders as "Special Agents" or "Agents" of Naval Intelligence. No other persons who conduct investigations in the Department of the Navy shall use these titles. Naval Intelligence credentials are to be accorded full recognition when presented to Naval commands and activities for access to Naval installations. Background Investigations with satisfactory results have been completed on all holders of Naval Intelligence credentials, and Top Secret clearances have been issued for them. When engaged in the performance of a duly authorized investigation, Special Agents or Agents shall be presumed to have a "need-to-know" with regard to access to all security information, material, or spaces which are relevant to that particular investigation. In the event an authorization in addition to the normal Top Secret clearance is required for access to "special" or compartmented materials, authorization for such access shall be requested from the command, agency, or office controlling such access prior to the Special Agent or Agent pursuing the investigation. Commanding officers may utilize this Instruction as assurance that holders of Naval Intelligence credentials have had Background Investigations with satisfactory results.

12. Area of Operations. Naval Intelligence investigative facilities are available in all Naval Districts, continental and extra-continental, and in the major overseas areas where Navy or Marine Corps forces are employed. Requests for investigative assistance in the types of cases authorized and directed herein should be addressed to the cognizant Officer in Charge, District Intelligence Office, Naval Counterintelligence Support Activity, or other similar or subordinate local Naval Intelligence component. In the absence of any such facility, requests may be made to the Director of Naval Intelligence.

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Under Secretary of the Navy.

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