

NAVY DEPARTMENT
Office of the Chief of Naval Operations
OFFICE OF NAVAL INTELLIGENCE
Washington

Op-16-A-5
S79-4/EN3-10
A2-11/EN3-10
Serial No. 0558916

Declassified / Upgrade to July 2, 1941

Auth: EO 12958

Date: 21 SEP 98 Unit: NCIS 22

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NAVAL INTELLIGENCE DIVISION CIRCULAR LETTER DC(C) 17-41

SUBJECT: Authority of Naval Intelligence Service Operatives to Make Arrests, Conduct Searches and Seizures; Carry Firearms.

Reference: (a) J.A.G. Conf. Ltr. to Acting Secretary of the Navy, dated September 29, 1939, (SC)A17-10, J:fmh.
(b) J.A.G. Conf. Ltr. to Secretary of the Navy, dated June 5, 1941, ND1/S79-4(410423), J.

1. Numerous inquiries have come to this Office recently regarding the use of firearms by Naval Intelligence Service Operatives, whether officers, on active duty or inactive duty, or civilian agents. To this end, the Judge Advocate General rendered a confidential opinion dated 5 June 1941 and approved by Acting Secretary Forrestal, same day, which is summarized in paragraph 2 hereof.

2. A. Searches and Seizures, Arrest:

Operatives of the Naval Intelligence Service are not authorized by law, as such operatives, to make arrests for violations of the laws of the United States or to conduct searches and seizures. Said operatives have the same authority in this category as private citizens. (Note: In this connection it might be well to procure a good hand book on the law of arrest. "The Law of Arrest"—Voorhees, published by Bobbs-Merrill Co., is suggested.)

B. Firearms:

(1) Officers of the United States Navy and officers of the United States Naval Reserve, while on active duty, and while engaged in performing their official duty as Naval Intelligence Service Operatives, may legally carry firearms, at any place within the United States or its territorial jurisdiction.

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(2) Officers of the Naval Reserve, who are on inactive status, and civilian agents, who are Naval Intelligence Service Operatives may not legally carry firearms while engaged in performing service as Naval Intelligence Service Operatives. (Exceptions - (a) where there is no State or territorial statute prohibiting the carrying of concealed weapons or possession of firearms; or (b) where the State or territorial statute makes such acts a criminal offense, but specifically exempts these classes of personnel.)

(Note: (a) District Intelligence Officers of all Naval Districts should have their legal sections investigate the laws of the jurisdictions concerned. (b) It is suggested that civilian agents required to carry firearms obtain permits under the law of their particular State or territory. (c) In obtaining such a permit said civilian agents must not reveal their identity with the United States Navy.)

3. Even though authority exists for the carrying of firearms under certain conditions as indicated above, and as a matter of policy, it should be definitely understood that the District Intelligence Officer is personally responsible for authorizing or permitting any officer or agent to carry firearms, under any circumstances, and then only when it has been definitely determined by the District Intelligence Officer (and he must do so in each particular instance that firearms are contemplated being carried) that the officer or agent concerned is thoroughly qualified from the standpoint of

- (1) thorough training in the mechanical operation (such as knowing how to load, unload, what to do if weapon jams or misfires, etc.) and scientific handling (quick and effective handling, shooting accurately, limits of range, etc.) of firearms.
- (2) actual previous comprehensive experience in carrying and handling firearms.

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(3) maturity and judgment which will enable the officer or agent to determine intelligently how firearms are to be carried and the circumstances under which the actual use of firearms is justified.

4. Notwithstanding the fact that the District Intelligence Officer has personally satisfied himself that officers or agents are competent to carry firearms as set forth above, blanket authority should not be issued. A determination should be made by the District Intelligence Officer personally in each individual phase of a case or assignment as to whether the circumstances warrant or justify the District Intelligence Officer authorizing the carrying of firearms.

/s/ A. G. Kirk

A. G. Kirk
Captain, U. S. Navy
Director of Naval Intelligence

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Auth: E012958
Date: 21 SEP 98 Unit: NCIS 22

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