



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, D.C. 20350

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IN REPLY REFER TO
Ser S1131
2740973

SECRET (Unclassified upon removal of enclosure)

MEMORANDUM FOR THE SECRETARY OF THE NAVY

Subj: Continuing intelligence activity

Encl: (1) Proposed SecNav response to ASD (Comptroller)

1. Incident to a continuing study by the Senate Judiciary Committee, Sub-committee on Constitutional Rights, into the surveillance of the political activities of American citizens, Senator Sam J. Ervin has requested certain information from the Secretary of Defense. The Assistant Secretary of Defense (Comptroller) is coordinating the reply. Specifically, Senator Ervin is inquiring into the scope of military surveillance of American civilians overseas.
2. Enclosure (1) contains replies to those questions posed by Senator Ervin which are pertinent to the Department of the Navy. The reply points out that the Navy, specifically the Naval Investigative Service, investigates or collects intelligence on civilians only when they pose a direct threat to the Navy. Pertinent instructions are provided as requested including the NAVINVSERV Counterintelligence Manual which is outdated and unused, but still technically, if not effectively, valid. Naval participation in Interdepartmental Intelligence Committees is identified and action taken as the result of inspections by the Defense Investigative Review Council is provided.
3. It is recommended that you sign enclosure (1).

Declassified / Downgrade to
Auth: 6012958
Date: 138898 Unit: NCF 22

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

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Serial S1132

SECRET (Unclassified upon removal of encls (1), (5) and (8))

MEMORANDUM FOR THE ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER)

Subj: Continuing Intelligence Activities

Ref: (a) SD Form 14 of 1 Aug 73 OSD Control #12795, w/Senator Ervin's
of 30 Jul 73

- Encl: (1) Executive memo of 26 Jun 39 relating to investigation of
espionage, counterespionage and sabotage
(2) Delimitations Agreement of 23 Feb 49
(3) SECNAVINST 5430.13B of 12 Mar 65
(4) SECNAVINST 3820.2A of 1 Nov 71
(5) DIRNIS ltr Ser S4501 of 29 Jul 71
(6) NAVINVSERVINST 5212.1 of 29 Nov 72
(7) NAVINVSERVINST 3820.1B of 15 Oct 72
(8) Counterintelligence Manual for Naval Intelligence of 6 Feb 68
(9) DIRNIS ltr Ser U5398 of 15 Oct 72
(10) DIRNIS ltr Ser U5691 of 8 Nov 72

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Auth: *ED 12958*
Date: *23 Aug 88* Unit: *NEU 22*

Reference (a) requested information concerning the surveillance of the political activities of American citizens overseas by the military departments. Responses to questions pertinent to the Department of the Navy are submitted below:

a. Response to Question I.E.

(1) The Naval Intelligence Command, and specifically its field activity the Naval Investigative Service (NAVINSERV), is the component responsible for counterintelligence investigation and collection within the Department of the Navy (less the combat related counterintelligence responsibilities of the U.S. Marine Corps). The authority for the activities of the NAVINSERV is derived from the documents appended as enclosures (1), (2) and (3). Enclosure (2) did confer exclusive jurisdiction upon Naval Intelligence for the investigation of certain offenses committed by civilians in named "overseas" areas. This jurisdiction, however, has not been used in recent years since the status of the named areas has changed and thus the authority is not considered to be completely valid. Any incidents arising in these areas would be referred to the Federal Bureau of Investigation.

(2) Although the Naval Investigative Service is authorized to investigate and collect intelligence on American civilians overseas, it undertakes such activity only within the limits of its authority.

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It does not and has not investigated or collected intelligence on American civilians overseas who do not pose a direct security threat to the Naval establishment, or who have not been involved in a criminal act involving Naval property or personnel.

(3) Enclosures (4) through (7) represent those instructions issued within the Department of the Navy since 1 March 1971 governing pertinent intelligence activity within and without the continental United States. The Naval Investigative Service does not have a regulation which corresponds with USAINTC Regulation 381-100. The nature of the NAVINVSERV overseas mission and the limited scope of its activity has never warranted the promulgation of such instructions.

(4) U. S. Marine Corps counterintelligence activities pertain entirely to tactical counterintelligence operations and maintenance of security aboard Marine Corps bases and installations. The Marine Corps does not have any directive corresponding to USAINTC 381-100.

b. Response to Question II

(1) The Naval Investigative Service and the Marine Corps have representatives on the following interdepartmental intelligence committees:

Naval Investigative Service

(a) Interdepartmental Intelligence Conference.

Captain J. Q. Edwards, USN
Captain Barney Martin, USN

1 Mar 71 to 30 Jun 73
1 Jul 73 to present

(b) Interdepartmental Committee on Internal Security -
Subcommittee on Entry and Exit Problems

Mr. John F. McDonnell

1 Mar 71 to present

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The purpose and scope of the above Committees are described in detail in ADP Directive 115.1 of 25 January 1968.

Date: 23 Sep 88 Naval Investigative Service and Marine Corps

(c) Security Committee, United States Intelligence Board.

Members

Captain P. J. Foley, USN (NIS)
Mr. Donald R. Paschal (NIS)

1 Mar 71 to 16 Apr 73
17 Apr 73 to present

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Alternates

Lt. Col. Phillip J. Ryan, USMC	1 Mar 71 to 30 Aug 71
Lt. Col. Raymon B. Steel, USMC	31 Aug 71 to 30 Mar 72
Lt. Col. Walter S. Pullar, USMC	17 May 72 to present

(d) Audio Countermeasures Subcommittee, Research and Development Subcommittee of the Technical Surveillance Countermeasures Committee, United States Intelligence Board.

Mr. Edward Barnhart, NIS	1 Mar 71 to Jul 71
Mr. William H. Donovan, NIS	Aug 71 to present
Maj. Denver D. Scott, USMC	1 Mar 71 to Apr 72
Maj. Donald L. Davies, USMC	May 72 to present

Information relative to the committees and subcommittees of the United States Intelligence Board can be obtained from the Director of that organization.

(2) Participation in the above named committees is continuing.

c. Response to Question III.(1)

Enclosures (8) and (9) represent the action taken by the Naval Investigative Service as the result of technical violations of DOD 5200.27 uncovered during the course of DIRC inspections.

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SECRETARY OF DEFENSE		<input checked="" type="checkbox"/>		ASD (Telecommunications)	
DEPUTY SECRETARY OF DEFENSE		<input checked="" type="checkbox"/>		GENERAL COUNSEL	<input checked="" type="checkbox"/>
THE SPECIAL ASSISTANT	<input checked="" type="checkbox"/>			ASST TO SEC DEF & DEP SEC DEF	
SECRETARY OF THE ARMY				ATSD (Atomic Energy)	
SECRETARY OF THE NAVY			1	ATSD (Legislative Affairs)	
SECRETARY OF THE AIR FORCE				DEFENSE COMMUNICATIONS AGENCY	
CHAIRMAN, JOINT CHIEFS OF STAFF				DEFENSE CONTRACT AUDIT AGENCY	
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ASD (Comptroller)				DEFENSE MAPPING AGENCY	
DASD (Administration)				DEFENSE NUCLEAR AGENCY	
ASD (Health and Environment)				DEFENSE SECURITY ASSISTANCE AGENCY	
ASD (Installations and Logistics)				DEFENSE SUPPLY AGENCY	
ASD (Intelligence)				NATIONAL SECURITY AGENCY	
ASD (International Security Affairs)				DASD Do Cook	<input checked="" type="checkbox"/>
ASD (Manpower and Reserve Affairs)					
ASD (Public Affairs)					
ASD (Systems Analysis)					

ACTION REQUIRED			
PREP OF REPLY FOR SEC OF DEF SIGNATURE	<input checked="" type="checkbox"/>	INFORMATION AND RETENTION	
PREP OF REPLY FOR DEP SEC OF DEF SIGNATURE		COMMENTS AND/OR RECOMMENDATION	
REPLY DIRECT (Fwd cy of reply for Sec of Def records)		COORDINATE REPLY WITH	
2. APPROPRIATE ACTION	1	N+P	

REMARKS

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CONGRESSIONAL

THE ATTACHED CORRESPONDENCE REQUIRES SPECIAL HANDLING IN ACCORDANCE WITH INSTRUCTIONS CONTAINED IN MEMORANDUM FROM THE SECRETARY OF DEFENSE DATED 27 MARCH 1969, SUBJECT, "CONGRESSIONAL CORRESPONDENCE."

THIS IS AN -

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ACTION DUE NOT LATER THAN	ROUTING DATE	OSD CONTROL NUMBER
	3 AUG 1973	12795

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United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
(PURSUANT TO SEC. 1, S. RES. 34, 110 CONGRESS)
WASHINGTON, D.C. 20510

July 30, 1973

Honorable James Schlesinger
Secretary
Department of Defense
Washington, D.C.

Dear Mr. Secretary:

As I indicated in my letter of July 3, 1973, the Constitutional Rights Subcommittee intends to continue its inquiry into surveillance by the military and other government agencies of political activities of Americans. You were kind enough in your reply of July 14, 1973, to offer your cooperation and to designate Mr. Martin Hoffman as liaison with the Subcommittee.

I am submitting with this letter a set of inquiries on this subject. Mr. Baskir of the Subcommittee will be in touch with Mr. Hoffman in case any problems arise with respect to this inquiry.

I want to thank you for your cooperation in the Subcommittee's endeavor.

With kindest wishes,

Sincerely yours,

Sam J. Ervin, Jr.

Sam J. Ervin, Jr.
Chairman

SJE:lbm

Enc.

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Continuing Intelligence Activities

A. On March 1, 1971, the Department of Defense issued DoD Directive 5200.27 governing the collection and retention of information on the political activities of Americans unaffiliated with the Armed Forces. The Department has forwarded to the Subcommittee a copy of this directive as well as USAINTC Reg. 381-100, dated 2 January 1970. The USAINTC Reg. included Chapter 6 which is classified "Secret" and published under separate cover. The Subcommittee has also received Changes 1, 2 and 3 to the USAINTC Reg. and no changes to DoD Directive 5200.27.

- (1) Are the DoD Directive and USAINTC Regulation still in effect?
- (2) Since the dates of their issuance (March 1, 1971, and January 2, 1970), have there been further formal changes to the DoD Directive or the USAINTC Reg. which are not in the Subcommittee's possession?
- (3) Since these dates, have there been any other directives or orders--classified or not--which amend, alter, modify, interpret or make exception to the provisions of the DoD Directive or the USAINTC Regulation in any respect?
- (4) Have any one-time or temporary exceptions or modifications been granted to the provisions of the DoD Directive, or the USAINTC Regulation under the provisions of para. 1-23(c) or otherwise?
- (5) Does the Directive apply to operations of the NSA, DIA and all other agencies under the jurisdiction of the Department of Defense? If not, please submit copies of the analogous regulations or orders which govern the collection of intelligence by these agencies.
- (6) Prior to March 1, 1971, was any information collected by the Department of the Army about civilians unaffiliated with the Department of Defense ever transmitted to NSA?
- (7) Subsequent to that date, was any such information ever transmitted to NSA? Does NSA now possess any such information?
- (8) If the answer to (6) or (7) is yes, please describe the kind, amount and nature of the information, and the circumstances of its transfer.

B. Section I of DoD Directive 5200.27 states that the directive applies to the collection of information regarding all persons and organizations not affiliated with the Department of Defense. Section II of the Directive provides, however, that it is applicable only to the use of military forces located within the 50 states and the territories and possessions of the United States. Para. 1-13 of USAINTC Regulation contains these same provisions.

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(1) Does the DoD Directive prohibit the collection of information on American civilians living abroad by military forces stationed outside the 50 states or the territories and possessions of the United States?

(2) If not, are there other directives, regulations, or orders which do prohibit such information-gathering?

(3) If there are not such regulations, are there other directives, regulations, or orders which limit or regulate such information-gathering?

C. Change 1 to USAINTC Reg. 381-100, dated 1 June 1971, added Section IV of Chapter 1, entitled "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," and Section X of Chapter 6, entitled "Counterintelligence Information Reporting." Para. 1-13(a) of USAINTC Reg. 381-100 states that it implements a Department of Army letter directing the implementation of DoD Directive 5200.27. It does not purport to supersede the existing provisions of USAINTC 381-100 except where they are in conflict with the policies stated.

(1) Are the procedures authorized by Chapter 6 of USAINTC Reg. 381-100 still valid as long as the intelligence collecting does not exceed the limits established by DoD Directive 5200.27 and Chapter 1, Section IV of USAINTC Reg. 381-100?

(2) If so, how many covert special operations plans have been proposed under the provisions of para. 6-14 since 1 June 1971, the date of Change 1 to USAINTC Reg. 381-100? How many received approval by USAINTC? By Department of the Army? By the Chairman of the Defense Investigative Review Council (DIRC)? Please specify the nature and circumstances of each plan which received approval.

(3) Para. 6-16(b)(2) alludes to the fact that some of the covert operations plans may entail "clandestine" (defined as "illegal") activities. Did any covert special operations plans proposed under para. 6-14 since 1 June 1971 entail "clandestine" activities? How many such plans were approved by USAINTC? By Department of the Army? By DIRC? Please specify the nature and circumstances of each plan which received approval.

(4) Section IV, Chapter 6 of USAINTC Reg. 381-100 authorizes Aggressive Counterintelligence Programs (ACIP), to be initiated on the request of local commanders. How many such requests for ACIP's were received by USAINTC after 1 June 1971? How many were approved by USAINTC? Is approval for such plans required by any higher level of authority? Please specify the nature and circumstances of each request which received approval of USAINTC or any higher authority.

(5) Section VI, Chapter 6 of USAINTC Reg. 381-100 authorizes covert Offensive Counterintelligence Operations (OFCO), to be initiated by MI

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group commanders. How many such operations were proposed by MI group commanders after 1 June 1971? How many were approved by USAINTC? Is approval for such plans required by any higher level of authority? Is higher authority required to be informed either before or after initiation? Please specify the nature and circumstances of each plan which received approval of USAINTC or any higher authority.

(6) Section VII, Chapter 6 of USAINTC Reg. 381-100 provides, inter alia for the selection and development of "confidential sources" among Department of Army personnel. Para. 6-39(C)(e) further alludes that some of these may be called upon to perform "clandestine" (defined as "illegal") acts. How many such "confidential sources" are now maintained by USAINTC? How many of these are classified as "clandestine" sources?

(7) Is the Interagency Source Registry, provided for in Section VIII, Chapter 6, USAINTC Reg. 381-100, still in existence? If not, on what date did it cease operation?

(8) Para. 6-62(d) of USAINTC Reg. 381-100 authorizes off-post monitoring of "subversive activity" under certain circumstances if the approval of the Department of Army has been obtained. How many requests to conduct such monitoring have been made to USAINTC since 1 June 1971? How many were approved by USAINTC? By Department of Army? Please specify the requesting unit, the approving authority, the activity monitored and the results of such operations.

(9) Section XII, Chapter 6 of USAINTC Reg. 381-100 provides for use of video tape and equipment to conduct intelligence operations. How many operations plans calling for use of such equipment were submitted to USAINTC since 1 June 1971? How many were approved by USAINTC? By Department of Army? Again, please specify the requesting unit, the approving authority, and how such equipment was employed.

D. We have noted that neither the DoD Directive nor the USAINTC Regulation applies specifically to military units stationed outside the 50 states or territories and possessions of the United States. The Subcommittee is interested in knowing whether USAINTC collects information on American citizens living outside the United States and its territories and possessions who are not affiliated with the Department of Defense. Specifically:

(1) If there are such operations, are they then governed by the limitations of DoD Regulation 5200.27 or USAINTC Reg. 381-100?

(2) If they are so governed, please furnish the Subcommittee with the number of special operations plans authorized under the provisions of para. 6-14 of USAINTC Reg. 381-100; the number of these plans which involved "clandestine" activities under para. 6-16(b)(2); the number of ACIP's authorized under Section IV, Chapter 6; the number of OFCO's

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authorized under Section VI, Chapter 6; and, finally, the number of instances where off-post monitoring under para. 6-62(d) have been authorized in overseas locations. (The Subcommittee realizes that these figures may be included in the totals furnished in the previous answers.)

(3) If intelligence-gathering activities are being carried out by USAINTC against American civilians living abroad, and these are not governed by DoD Directive 5200.27 and USAINTC Reg. 381-100, under what regulation are they being carried out? If such an alternative regulation exists, the Subcommittee asks that it be furnished a copy.

(4) If intelligence-gathering activities are being carried out by USAINTC against American civilians living abroad, which, if any, of the following techniques have been employed to collect such intelligence:

- a. Wiretapping
- b. Electronic bugging
- c. Covert infiltration
- d. Opening, copying or tampering with mail
- e. Burglaries or other clandestine means
- f. Informants
- g. Overt observation
- h. Videotape equipment
- i. Liaison with foreign governments
- j. Liaison with U.S. agencies

(5) Has any intelligence operation been conducted by USAINTC involving the activities of one Thomas Schwaetzer or one Max Watts, residing in Heidleberg, West Germany? If so, has this operation entailed a wiretap by USAINTC on telephone number 06223-3316? To what intelligence operation does the USI case number A-0088 refer?

(6) Does USAINTC maintain a dossier on Lawyer's Military Defense Committee attorney Howard DeNike, residing in Heidleberg, West Germany? If so, what is the authority for the maintenance of such dossier?

E. The Subcommittee is interested in learning the extent of surveillance activity over civilians which is carried out by all subordinate units of the Department of Defense, and not simply those of the Army or the USAINTC. What other agencies or units under departmental jurisdiction are now authorized to collect intelligence on civilians and civilian organizations-- either within or without the 50 states and the territories and possessions of the United States? What directives or regulations govern such activities? Please furnish the Subcommittee with copies of such regulations. In particular the Subcommittee has not received copies of regulations issued by the Navy or Air Force which correspond to USAINTC Reg. 381-100. Accordingly, we request copies of those regulations issued by the other services since March 1, 1971, which govern their intelligence activities both within and without the continental United States.

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II. Military Participation in Interagency Intelligence Activities

A. In the course of the Subcommittee's investigation into Army surveillance beginning in 1970, it was ascertained that military representatives held seats as late as 1970 on the two standing committees of the Justice Department's Interdivisional Intelligence Unit, namely, the Intelligence Evaluation Committee and the Law Enforcement Policy Committee.

DoD Directive 5200.27 did not specifically preclude the military's participation in interagency intelligence committees, such as the Justice Department's IDIU. In fact, Section IV(c) of the directive acknowledges that the "Attorney General is the chief civilian officer in charge of coordinating all federal government activities relating to civil disturbances and that information may be obtained from the Justice Department which relates to the military's civil disturbance function, providing the receipt of such information has been authorized by the Secretary of Defense or his designee. USAHMC Reg. 381-100 also clearly contemplates close liaison with the Justice Department. Participation in interagency intelligence committees or other activities seems to have been implicitly allowed for.

(1) To what extent, if any, did Department of Defense personnel continue to participate in any interagency intelligence evaluation committees after the promulgation of DoD Directive 5200.27 on 1 March 1971? The Subcommittee is interested in participation in any sort of domestic intelligence committee, whether formal or ad hoc, or whether created under the auspices of the IDIU, the Internal Security Division or any other Division of the Justice Department, the White House or any other agency of the Executive Branch.

(2) If, indeed, there was such participation by Defense Department personnel, please provide the names of the intelligence committees, the names and offices of those participating, and the inclusive dates of such participation.

(3) Again, if there was such participation, please describe the purpose and authority of each committee. If there are written statements to this effect, please include a copy of them. The Subcommittee also requests that it be furnished copies of any reports which these committees may have produced.

(4) Please indicate if participation is continuing.

III. Operation of the Defense Investigative Review Council (DIRC)

A. DoD Directive 5200.27 established the Defense Investigative Review Council (DIRC) to monitor the operation of the Defense Department's intelligence activities in order to insure that the regulation was being complied with. The Subcommittee subsequently did receive copies of inspection schedules which the DIRC had conducted or intended to conduct.

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(1) The Subcommittee has never received any of the inspection reports. We now request that copies of all these reports be made available to us. We are, of course, particularly interested in any such reports which include evidence of (a) continued domestic surveillance of civilians by military agents in violation of the DoD Directive, (b) the maintenance of domestic intelligence information collected after the date of the regulation, or (c) the maintenance of domestic intelligence information which had not been destroyed as required by the regulation. Any record of corrective action taken by the DIRC or the unit involved should also be included.

(2) Does the DIRC review the intelligence activities of the Defense Intelligence Service? If so, what has been the Council's findings in regard to this agency's compliance with the DoD regulation?

(3) Does the DIRC review the intelligence activities of the National Security Agency? If so, what have been the Council's findings with respect to compliance on the part of this agency?

(4) Does the DIRC review intelligence activities of Defense Department units outside the continental United States? If so, what have been the DIRC's findings with respect to compliance in this area?

(5) Please submit copies of all DIRC reports with respect to compliance by DIS, NSA, and intelligence activities by units of the Department of Defense.

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