



Department of Defense
INSTRUCTION

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May 18, 1990
NUMBER 5240.10



SUBJECT: DoD Counterintelligence Support to Unified and Specified Commands

USD(P)

- References:
- (a) Executive Order 12333, "United States Intelligence Activities," December 4, 1981
 - (b) DoD Directive 5240.2, "DoD Counterintelligence," June 6, 1983
 - (c) JCS Pub.1-02, "Department of Defense Dictionary of Military and Associated Terms (Incorporating the NATO and IADB Dictionaries)," December 1, 1989
 - (d) Director of Central Intelligence Directive 5/1, December 19, 1984*
 - (e) through (k), see enclosure 1

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A. PURPOSE

This Instruction:

1. Under the authority of references (a) and (b) establishes policies, assigns responsibilities, and prescribes procedures to ensure that the counterintelligence requirements of the Commanders in Chief of the Unified and Specified Commands are met under the parameters established by law, Executive order, and DoD Directives.

2. Provides general principles for the command relationships and support requirements between the counterintelligence organizations of the Military Departments and the Unified and Specified Commands during peacetime, exercises, contingencies, and through the spectrum of armed conflict.

B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD); the Military Departments; the Chairman, Joint Chiefs of Staff (Joint Staff); the Unified and Specified Commands; and the Defense Intelligence Agency (DIA).

This document has been approved for public release and sale; its distribution is unlimited.

*Available through counterintelligence operating elements on request of competent authority.

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C. DEFINITIONS

Terms used in this Instruction are defined in E.O. 12333, DoD Directive 5240.2, and JCS Pub. 1-02 (references (a), (b), and (c)), except for the following:

1. Counterintelligence Collection. The systematic acquisition of information on espionage, sabotage, terrorism, and related hostile intelligence activities conducted for, or on behalf of, foreign powers, organizations, or persons, that are directed against or threaten DoD interests. The primary purpose of counterintelligence collection is to detect the aforementioned activities to deter, neutralize, or exploit them.

2. Counterintelligence Production. The process of collating, evaluating, interpreting, and analyzing information of counterintelligence significance and publishing studies, assessments, estimates, and reports.

3. Counterintelligence Support Officer (CISO). A senior military member in the rank of Major or above, or a civilian equivalent, serving or who has served in the Naval Investigative Service Command (NISCOM) or the Air Force Office of Special Investigations (AFOSI), or is a senior U.S. Army or Marine Corps counterintelligence officer, or civilian, with the respective Military Department specialty designator of 35E or 0210, or equivalent civilian designator, and is experienced in counterintelligence investigations, operations, collection, and production.

D. POLICY

It is DoD Policy that:

1. The counterintelligence mission during peacetime and all levels of conflict is to provide all DoD Components, including the Chairman, Joint Chiefs of Staff (CJCS) (Joint Staff); the Military Departments; and the operational commanders; with the necessary counterintelligence support to gather information and conduct activities to protect against espionage and other intelligence activities, sabotage, international terrorist activities, or assassinations conducted for, or on behalf of, foreign powers, organizations, or persons.

a. This support shall be provided on a worldwide basis using the three counterintelligence functions of collection and production, operations, and investigations.

b. The priorities for and activities required to provide that support shall vary according to the area of operation, absence or level of hostilities, nature of the military mission, composition of forces, tactics, and the weapon systems employed.

c. The collection and production functions during peacetime and all levels of conflict must concentrate first on timely and credible warning of security threats to U.S. and DoD interests.

d. Counterintelligence operations, as defined in Director of Central Intelligence Directive 5/1 (reference (d)) and the classified annex of, "Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation," (reference (e)), are coordinated at the national level.

2. Counterintelligence, under E.O. 12333 and DoD Directive 5240.2 (references (a) and (b)), and this Instruction, is limited to collection and production, operations, and investigations and excludes security countermeasures that include personnel, physical, document or communications security programs, operations security, and counterimagery.

a. Counterintelligence may assist those security functions, as well as foreign (positive) intelligence and deception activities.

b. Security functions shall continue to be provided to the Unified and Specified Commands through the appropriate military component organizations in each Military Service.

3. Centralized direction and control of the counterintelligence organizations of the Military Departments and their worldwide activities are necessary to ensure compliance with U.S. Attorney General procedures, with coordination requirements of the Director of Central Intelligence, and with executive branch and congressional oversight requirements. Accordingly, under P.L. 99-433 (reference (f)), the Secretaries of the Military Departments are responsible for the effective supervision and control of the intelligence activities of their Military Departments and for such other activities as may be prescribed by law or by the President or Secretary of Defense.

4. Unified and Specified Commands shall receive their counterintelligence support from the counterintelligence organizations of the Military Departments and the DIA.

a. Unified Commands shall receive counterintelligence support from the counterintelligence organizations that support their Service components. Specified Commands shall receive counterintelligence support from the counterintelligence organization of the Service that comprises each command's forces.

b. During peacetime, contingencies for which there are no plans, and low-intensity conflict where there is no CJCS-approved plan under execution which provides for operational

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control of counterintelligence elements, counterintelligence organizations and activities remain under the operational command and control of their Military Department and counterintelligence organizational Headquarters.¹ In these circumstances, the Commanders of the Unified and Specified Commands exercise coordination authority over supporting counterintelligence elements, as specified in subsection D.7., below.

c. When executing a CJCS-approved plan, that provides for their operational control of counterintelligence elements in low-intensity conflict, the Commanders of the Unified Commands shall assume operational control of counterintelligence elements through their component commands. In low-intensity conflict, Commanders of Specified Commands shall exercise operational control of counterintelligence assets that support Service elements assigned for operations in accordance with the provisions of the operations, contingency, or special purpose plan under execution when these plans provide for operational control of counterintelligence assets. The requirements outlined in paragraphs D.5.a. and D.5.b., below, shall apply in low-intensity conflict.

d. Counterintelligence organizations shall ensure that the appropriate Unified or Specified Command Commander is kept currently and fully apprised of and expeditiously informed of any activities that could jeopardize life, involve foreign policy, embarrass the U.S. Government, or have other significant consequences.

e. Counterintelligence activities and operations relevant to the command or its components shall be conducted in coordination with and in accordance with the Commander's priorities.

f. The Secretaries of the Military Departments are responsible for oversight of their counterintelligence organizations and activities to ensure compliance with law, regulation, and policy.

¹Normally in these circumstances Army CI elements below the major command (MACOM) level which are assigned outside the Continental U.S. (CONUS), are under the operational control of the Service component Headquarters in each theater (e.g., the 66th and 501st Military Intelligence Brigades).

5. During times of war, declared hostilities, or on execution of CJCS-approved plans, counterintelligence organizations in the affected theaters shall come under the operational control of the theater Unified Commanders through their respective component commanders, in accordance with the provisions of the operations, contingency, or special purpose plan under execution.² During times of war, declared hostilities, or on execution of CJCS-approved plans, Specified Commands shall exercise operational control of counterintelligence assets that support Service elements assigned for operations in accordance with the provisions of the operations, contingency, or special purpose plan under execution.

a. Administrative control remains with the counterintelligence organization of each Military Department. The local counterintelligence units of each Military Department shall work for their senior member in theater and retain their organizational integrity.

b. The principal responsibility of local counterintelligence units shall be to continue to support their Service components, which are an integral part of the theater command's force structure. Those counterintelligence units shall also provide priority support to the joint command staff. That structure and emphasis shall provide the Unified and Specified Commands with a complete component package containing its own specialized counterintelligence support.

6. During exercises, counterintelligence units that are deployed or detailed to participate in scenario play within a Unified Command's area of operations shall fall under the operational control and tactical tasking authority of that Unified Command. Counterintelligence units providing nonscenario, real-world collection, operations, and investigative coverage shall retain normal peacetime command relationships for the reasons in subsection D.3., above.

7. A CISO shall be provided to each Unified or Specified Command.

²During times of war or declared hostilities, the normal command arrangements governing Army CI elements below MACOM, which provide CI support in theaters outside CONUS, remain unchanged since they are under the operational control of the Service Component Headquarters in each theater. However, Army MACOM directed CI activities that affect Unified and Specified Commands, such as the Foreign Counterintelligence Activity, shall comply with the provisions of this Instruction.

a. The Unified Command Commander shall select a Service counterintelligence organization to provide the CISO. The Specified Command Commander shall receive a CISO from the counterintelligence organization of the Service that comprises the command's forces. The Unified and Specified Command Commander shall determine the duty status of the CISO (liaison officer, augmentee, detailed, attached, or assigned), and shall decide the position of the CISO within the Headquarters (e.g., special staff officer, special assistant, etc.). The individuals selected to be CISO's shall meet the qualifications in subsection C.3., above.

b. The CISO's primary duty shall be to assist the Unified or Specified Commander and staff by functioning as the command counterintelligence coordination authority. In that role, the CISO's responsibilities shall include the following:

(1) Provide expertise for the command and staff in the collection, production, investigative, and operational capabilities of counterintelligence.

(2) Provide information to the commander and staff of all counterintelligence activities in, or related to, the command's area of interest.

(3) Coordinate with all U.S. counterintelligence organizations, as necessary, to support the command's counterintelligence requirements, to ensure that counterintelligence activities relevant to the command reflect the commander's priorities, and to coordinate counterintelligence activities with other intracommand activities.

E. RESPONSIBILITIES

1. The Under Secretary of Defense for Policy (USD(P)) shall:

a. Provide policy guidance and oversight through the Deputy Under Secretary of Defense for Security Policy for DoD counterintelligence support to the Unified and Specified Commands, as defined in this Instruction and in DoD Directive 5240.2 (reference (b)).

b. As the DoD Program Manager for the Foreign Counterintelligence Program (FCIP), prepare, submit, and support the FCIP, to include the requirements specified in subsection D.7., above, and the requirements of the Military Departments and the DIA.

2. The Secretaries of the Military Departments are responsible to the Secretary of Defense for the effective supervision and control of the counterintelligence activities of their Military Departments and shall:

a. Provide counterintelligence support to Unified and Specified Commands.

b. Ensure that funding and resources are adequate to support Unified and Specified Commands.

c. Provide counterintelligence assistance to each Unified and Specified Command's CISO.

d. Exercise operational command and control of counterintelligence organizations and activities in their Military Departments in peacetime, and in low-intensity conflict, where there is no CJCS-approved plan under execution that provides for a change in operational control.

e. Retain administrative control for counterintelligence assets attached, assigned, or under the operational control of Unified and Specified Commands.

3. The Director, Defense Intelligence Agency (DIA), shall:

a. Ensure that adequate, timely, and reliable multidiscipline counterintelligence analysis and production are provided to the CJCS, the Joint Staff, the Military Departments, and the Unified and Specified Commands.

b. Establish and maintain a data base consistent with DoD Directive 7750.5 (reference (g)) to support the counterintelligence needs of the OSD, the CJCS, the Joint Staff, the Military Departments, and the Unified and Specified Commands.

c. Coordinate the counterintelligence production programs of the Military Departments and publish, annually, a DoD counterintelligence production schedule and a DoD counterintelligence publications registry, in accordance with DIA Regulation 54-12 (reference (h)).

d. Provide counterintelligence staff support on direction by the CJCS, as prescribed by E.O. 12333 (reference (a)).

4. The Commanders of the Unified Commands shall:

a. Select a Service counterintelligence organization to provide a CISO, to act as the command's counterintelligence coordination authority under subsection D.7., above.

b. Exercise operational control of counterintelligence organizations in their theaters or areas of operation in time of war, declared hostilities, or on execution of CJCS-approved plans.

5. The Commanders of the Specified Commands shall:

a. Select a CISO from the counterintelligence organization of the Service that comprises the command's forces to act as the command's counterintelligence coordinating authority, under subsection D.7., above.

b. Exercise operational control of counterintelligence assets that support Service elements assigned for operations in accordance with the provisions of the operations, contingency, or special purpose plan under execution.

F. PROCEDURES

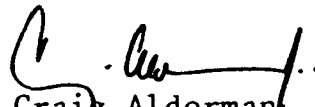
Counterintelligence organizations operating in Unified Command areas of responsibility and conducting activities affecting Specified Commands shall keep the respective Commanders in Chief fully apprised of their activities in accordance with paragraph D.4.d., above.

a. This should be accomplished by briefings to the commands on at least a semiannual basis. Minimally, the briefings should include a thorough overview of investigations, double agent operations, collection activities, and production that are relevant to the command or occur within the command's area of responsibility.

b. The procedures in E.O. 12333, DoD Directive 5240.1, and DoD 5240.1-R (references (a), (i), and (j)) shall be complied with.

G. EFFECTIVE DATE

This Instruction is effective immediately.



Craig Alderman, Jr.
Deputy Under Secretary of Defense
for Security Policy

Enclosures - 2

1. References
2. Background

REFERENCES continued

- (e) Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation, April 5, 1979
- (f) Public Law 99-433, "Goldwater-Nichols Department of Defense Reorganization Act of 1986," October 1, 1986
- (g) DoD Directive 7750.5, "Management and Control of Information Requirements," August 7, 1986
- (h) Defense Intelligence Agency Regulation 54-12, "Counterintelligence Publications and Production," March 22, 1974
- (i) DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988
- (j) DoD Regulation 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons," December, 1982
- (k) Public Law 99-145, "DoD Authorization Act of 1986," November, 1985

BACKGROUND

The AFOSI and NISCOM have no foreign (positive) intelligence or human intelligence functions, but are responsible for, and must remain capable of providing, independent criminal and fraud investigative support to Department of the Air Force and Department of the Navy component commands under P.L. 99-145 (reference (k)). For that reason, AFOSI and NISCOM are not part of, or subordinate to, the foreign (positive) intelligence elements of the Department of the Air Force and the Department of the Navy. Conversely, the U.S. Army Intelligence and Security Command and the counterintelligence elements of the U.S. Marine Corps have no criminal or fraud investigative functions but, in addition to their counterintelligence missions, are responsible for, and must remain capable of, providing foreign (positive) intelligence support to U.S. Army and U.S. Marine Corps component commands. Army counterintelligence support is also provided by other units, such as the 650th Military Intelligence Group, the Intelligence Threat and Analysis Center, and tactical counterintelligence units.

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DEPARTMENT OF DEFENSE DIRECTIVES SYSTEM TRANSMITTAL

NUMBER

5240.10, Change 1

DATE

April 8, 1992

DISTRIBUTION

5000 series

ATTACHMENTS

Pages 7 and 8

INSTRUCTIONS FOR RECIPIENTS

The following pen and page changes to DoD Instruction 5240.10, "DoD Counterintelligence Support to Unified and Specified Commands," May 18, 1990, are authorized:

PEN CHANGES**Page 1**

Header. Change "USD(P)" to "ASD(C3I)"

Section B.

Line 2

Change "semicolons to commas"

Delete the "comma" that follows Chairman and insert "of the"

Line 3

After Staff, insert "and the", delete the "parentheses" surrounding Joint Staff, and change the "semicolon to a comma"

Line 4. Change the "semicolon to a comma"

Page 2

Subsection D.1.

Line 3. Delete the "comma" that follows Chairman, insert "of the", and delete "(CJCS) Joint"

Line 4. Delete "Staff)" and change the "semicolons to commas"

Line 5. Change the "semicolon to a comma"

Page 3, paragraph D.4.b., line 2. Change "CJCS" to "Chairman of the Joint Chiefs of Staff"

Page 4, paragraph D.4.c., line 1. Change "CJCS" to "Chairman of the Joint Chiefs of Staff"

Page 5, subsection D.5., lines 2 and 8. Change "CJCS" to "the Chairman of the Joint Chiefs of Staff"

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

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INSTRUCTIONS FOR RECIPIENTS (continued)

Page 6

Subsection E.1.

Change "Under" to "Assistant" and "Policy (USD(P))" to "Command, Control, Communications, and Intelligence"

Paragraph F.1.a., line 2.

Change "Under" to "Assistant" and "Security Policy" to "Counterintelligence and Security Countermeasures"

Page 1-1

Reference (h) line 3. Change "March 22, 1974" to "March 8, 1990"

PAGE CHANGES

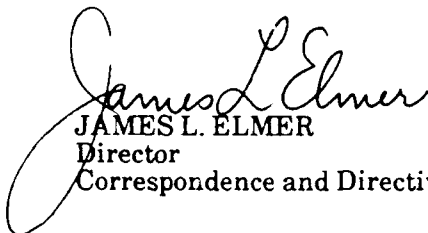
Remove: Pages 7 and 8

Insert: Attached replacement pages

Changes appear on pages 7 and 8 and are indicated by marginal asterisks.

EFFECTIVE DATE

The above changes are effective immediately.


JAMES L. ELMER
Director
Correspondence and Directives

a. Provide counterintelligence support to Unified and Specified Commands.

b. Ensure that funding and resources are adequate to support Unified and Specified Commands.

c. Provide counterintelligence assistance to each Unified and Specified Command's CISO.

d. Exercise operational command and control of counterintelligence organizations and activities in their Military Departments in peacetime, and in low-intensity * conflict, where there is no Chairman of the Joint Chiefs of * Staff-approved plan under execution that provides for a change * in operational control.

e. Retain administrative control for counterintelligence assets attached, assigned, or under the operational control of Unified and Specified Commands.

3. The Director, Defense Intelligence Agency (DIA), shall:

a. Ensure that adequate, timely, and reliable multi-discipline counterintelligence analysis and production are * provided to the Chairman of the Joint Chiefs of Staff, the * Military Departments, and the Unified and Specified Commands.

b. Establish and maintain a data base consistent with DoD Directive 7750.5 (reference (g)) to support the needs of the * OSD, the Chairman of the Joint Chiefs of Staff, the Military * Departments, and the Unified and Specified Commands.

c. Coordinate the counterintelligence production programs of the Military Departments and publish, annually, a DoD counterintelligence production schedule and a DoD counterintelligence publications registry, in accordance with DIA Regulation 54-12 (reference (h)).

d. Provide counterintelligence staff support on * direction by the Chairman of the Joint Chiefs of Staff, as * prescribed by E.O. 12333 (reference (a)).

4. The Commanders of the Unified Commands shall:

a. Select a Service counterintelligence organization to provide a CISO, to act as the command's counterintelligence coordination authority under subsection D.7., above.

b. Exercise operational control of counterintelligence organizations in their theaters or areas of operation in time of * war, declared hostilities, or on execution of the Chairman of * the Joint Chiefs of Staff-approved plans.

5. The Commanders of the Specified Commands shall:

a. Select a CISO from the counterintelligence organization of the Service that comprises the command's forces to act as the command's counterintelligence coordinating authority, under subsection D.7., above.

b. Exercise operational control of counterintelligence assets that support Service elements assigned for operations in accordance with the provisions of the operations, contingency, or special purpose plan under execution.

F. PROCEDURES

Counterintelligence organizations operating in Unified Command areas of responsibility and conducting activities affecting Specified Commands shall keep the respective Commanders in Chief fully apprised of their activities in accordance with paragraph D.4.d., above.

a. This should be accomplished by briefings to the commands on at least a semiannual basis. Minimally, the briefings should include a thorough overview of investigations, double agent operations, collection activities, and production that are relevant to the command or occur within the command's area of responsibility.

b. The procedures in E.O. 12333, DoD Directive 5240.1, and DoD 5240.1-R (references (a), (i), and (j)) shall be complied with.

G. EFFECTIVE DATE

This Instruction is effective immediately.



* Duane P. Andrews *
* Assistant Secretary of Defense *
* Command, Control, Communications *
* and Intelligence *

Enclosures - 2

1. References
2. Background