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COMDTINST 3821.14  
AUG 28 2003

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Chief, Information and Intelligence Law (CG-0942)

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COMMANDANT INSTRUCTION 3821.14

Subj: OVERSIGHT OF COAST GUARD INTELLIGENCE ACTIVITIES

- Ref:
- (a) Executive Order 12333
  - (b) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)
  - (c) Classified Supplement to Coast Guard Intelligence Activities, COMDTINST S3821.12 (series)
  - (d) Section 502 of the National Security Act of 1947 (50 U.S.C. § 413a)
  - (e) Executive Order 13286

1. PURPOSE. This Instruction establishes policies and procedures for the oversight of Coast Guard intelligence activities and implements procedures for the conduct of intelligence oversight as described in references (a) through (e), including the assignment of oversight responsibilities within the Coast Guard, relationships with external oversight entities, conduct of intelligence oversight training, reporting of questionable intelligence activities (“questionable activities”), and the conduct of intelligence oversight inspections.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, assistant commandants for directorates, Chief Counsel, commanding officers of headquarters units and special staff offices at Headquarters shall ensure compliance with the provisions of this Instruction. Internet release of this Instruction is not authorized.
3. DIRECTIVES AFFECTED. Where provisions of the Coast Guard Intelligence Manual, COMDTINST SM3800.1 (series) conflict with the provisions of this Instruction, this Instruction

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shall control. Where provisions of this Instruction conflict with reference (a) through (d), those directives shall control.

4. DISCUSSION.

a. Coast Guard Intelligence Program. The Coast Guard Intelligence Program consists of two parts: the National Intelligence Element and Law Enforcement Intelligence Program.

- (1) The National Intelligence Element is part of the Intelligence Community (IC) and conducts “intelligence activities” as described in reference (a) through (c). This Instruction governs oversight of intelligence activities. Reference (d) designates the Commandant and Assistant Commandant for Intelligence as the Senior Official of the Intelligence Community (SOIC) for the National Intelligence Element.
- (2) The Law Enforcement Intelligence Program describes the collection, retention, and dissemination of information pursuant to Coast Guard law enforcement and regulatory authority. This Instruction does not apply to traditional law enforcement activities conducted by Coast Guard personnel or to criminal investigations conducted by the Coast Guard Investigative Service.

b. Definitions.

- (1) Coast Guard National Intelligence Component. Any organizational part of the Coast Guard National Intelligence Element.
- (2) Coast Guard National Intelligence Element. The collective organization of Coast Guard units, staffs, and officers, or components authorized to conduct intelligence activities, including:
  - (a) The staff of the Assistant Commandant for Intelligence, including personnel assigned or attached to other organizations, with the exception of those personnel not engaged in intelligence activities;
  - (b) The Intelligence Coordination Center (ICC), with the exception of those personnel not engaged in intelligence activities; and
  - (c) Personnel assigned to other units or staffs and designated by the Assistant Commandant for Intelligence as part of the National Intelligence Element.
- (3) Coast Guard National Intelligence Personnel. Those Coast Guard military and civilian personnel, including contractors or other IC personnel, who are part of the Coast Guard National Intelligence Element.
- (4) Supervisor. Supervisor means the commanding officer, division/branch chief, or other person directly responsible for the management and operation of a Coast Guard national intelligence component.

- (5) Questionable Activity. A questionable activity is any conduct that constitutes, or is related to, an intelligence activity that may violate the law, any Executive Order or presidential Directive, including references (a) through (c). It also includes a potential violation of any federal criminal law, including serious offenses under the Uniform Code of Military Justice, by a person assigned to a Coast Guard national intelligence component.
- c. Authority to Conduct Intelligence Activities. The authority of the National Intelligence Element to conduct intelligence activities is derived from Part 1.4 of reference (a), which provides that the agencies of the Intelligence Community (IC) shall, in accordance with applicable United States law and other provisions of reference (a), conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:
- (1) Collection of information needed by the President, National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;
  - (2) Production and dissemination of intelligence;
  - (3) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;
  - (4) Special activities;
  - (5) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and
  - (6) Such other intelligence activities as the President may direct from time to time.
- d. National Intelligence Element Mission. Subject to guidance provided by the Director of Central Intelligence, the Commandant of the Coast Guard and Assistant Commandant for Intelligence, utilizing the National Intelligence Element of the Coast Guard, shall:
- (1) Collect, produce, and disseminate military and military-related foreign intelligence and counterintelligence;
  - (2) Collect, produce, and disseminate foreign intelligence and counterintelligence necessary for the Commandant and Secretary of Homeland Security to meet national and Departmental intelligence responsibilities, including intelligence related to international narcotics trafficking, international terrorism, international illegal maritime alien migration, international fisheries and international environmental threats; and

(3) Conduct counterintelligence activities inside the United States in coordination with the Federal Bureau of Investigation, and outside the United States in coordination with the Central Intelligence Agency:

- e. Procedures Governing Intelligence Activities. Section 2.3 of reference (a) requires each IC element to develop procedures for the conduct of intelligence activities, including policies governing the collection, retention, and dissemination of information concerning United States persons (USPer). Those procedures are contained in references (b) and (c).
- f. Intelligence Oversight Program. The purpose of Intelligence Oversight is to ensure that all intelligence activities are conducted in compliance with applicable U.S. law and IC policy. The primary objective of the Coast Guard Intelligence Oversight program is to ensure that intelligence activities conducted by Coast Guard National Intelligence Element components and personnel comply with mandated procedures and other applicable laws and directives, and do not infringe upon or violate the rights of USPer. While oversight is primarily concerned with the rights of USPer, the oversight program and this Instruction apply to all intelligence activities, whether they deal with USPer or not. The Intelligence Oversight Program is made up of five functional areas:
  - (1) Training;
  - (2) Inspections;
  - (3) Identification, Reporting, and Investigation of Questionable Activities;
  - (4) Periodic Reports; and
  - (5) Congressional notifications.
- g. Responsibilities.
  - (1) Chief Counsel (Commandant (G-L)). In order to ensure the independence of the oversight function, the Chief Counsel shall be primarily responsible for the Intelligence Oversight Program. The Chief Counsel shall ensure appropriate oversight of intelligence activities within the Coast Guard, and shall report to the General Counsel of the Department and Intelligence Oversight Board as necessary in order to ensure compliance with the provisions of Executive Order 12863 and reference (a). Legal Officers and chiefs of offices on the Chief Counsel's staff with responsibility for advising Coast Guard national intelligence components shall ensure the performance of intelligence oversight functions. To ensure necessary independence of oversight functions, Legal-Advisors attached to Coast Guard national intelligence components shall report as follows on intelligence oversight matters:
    - (a) Legal Advisor(s), Intelligence Directorate in Headquarters reports to Chief, Office of Maritime and International Law;

- (b) Legal Advisor, Atlantic Area Intelligence Division reports to Chief, Legal Division, Maintenance and Logistics Command Atlantic; and
  - (c) Legal Advisor, Pacific Area Intelligence Division reports to Chief, Legal Division, Maintenance and Logistics Command Pacific.
- (2) Assistant Commandant for Intelligence (Commandant (G-C2)). Commandant (G-C2) shall carry out the responsibilities of the SOIC for the National Intelligence Element. The Chief, Office of Intelligence Compliance & Oversight (Commandant (G-C203)), under the general direction and supervision of the Director of Maritime Intelligence Resources, Technologies and Compliance (G-C20) and Commandant (G-C2), shall conduct oversight of the National Intelligence Element. This function shall be carried out in coordination and in compliance with the direction of the Chief Counsel, who is primarily responsible for intelligence oversight.
- (3) Inspector General. Nothing in this Instruction shall interfere with the authority and function of the Inspector General with respect to criminal investigations of civilian employees, investigations and audits of Coast Guard activities, or intelligence oversight functions assigned to the Inspector General under Executive Order 12863 and reference (a). The Inspector General shall have access to any information necessary to perform duties assigned by law or related to this Instruction, subject to law and policy governing the protection of intelligence sources and methods.
- (4) Intelligence Oversight Official. Supervisors of national intelligence components without a legal advisor permanently assigned on site (e.g., ICC) shall designate in writing an Intelligence Oversight Official to ensure compliance with references (a) through (d) and this Instruction. The Intelligence Oversight Official shall have intelligence oversight as a primary duty, but may be assigned other primary or collateral duties. The Intelligence Oversight Official shall regularly communicate directly with the servicing legal office to ensure the proper conduct of oversight functions.
- (5) National Intelligence Components and Personnel. National intelligence components and personnel shall:
- (a) Ensure that all intelligence activities that may be unlawful are reported in accordance with Procedure 15 of reference (b);
  - (b) Ensure that no adverse action is taken against any person because that person reports activities pursuant to Procedure 15 of reference (b);
  - (c) Impose appropriate corrective and, if appropriate, disciplinary action on Coast Guard national intelligence personnel who violate the provisions of references (a) through (c), or other directives governing the conduct of intelligence activities; and
  - (d) Ensure that the Chief Counsel, personnel designated to conduct oversight inspections, Inspector General, General Counsel of the Department, and Intelligence Oversight Board have access to any information necessary to perform their duties assigned by statute,

Executive Order, references (b) and (c) or this Instruction, subject to law and policy governing the protection of intelligence sources and methods.

- h. Intelligence Oversight Training. Procedure 14 of references (b) and (c) requires Commandant (G-C2) and Supervisors of Coast Guard national intelligence components to ensure that Coast Guard national intelligence personnel are thoroughly familiar with reference (a), and the provisions of references (b) and (c), and regularly trained and exercised in the application of those rules to the conduct of intelligence activities, with particular emphasis placed on Procedures 1-4, 14, and 15. Completion of all training shall be documented in the component's intelligence oversight records. Training records shall be retained in a master file until the individual permanently departs the component. Training activity shall be reflected in quarterly Intelligence Oversight reports.
- (1) Initial Training. All National Intelligence Element personnel shall receive initial training within 30 days of their arrival at the component. Initial training shall consist of not less than 3 hours of in-person training led by an instructor who has been designated in writing by the Chief Counsel. Training shall cover references (a) through (c) and this Instruction. Additional specialized training may be required by the Chief Counsel and/or Commandant (G-C2). "In-person" training includes any live training conducted by electronic means (e.g., telephone, videoconference).
- (2) Refresher Training. All National Intelligence Element personnel shall receive annual refresher training not more than 12 months from the date of initial training or prior refresher training. Refresher training shall consist of not less than 1 hour of in-person training led by an instructor who has been designated in writing by the Chief Counsel, or 1 hour of written training consisting of reviewing references (a) through (c) and this Instruction with an instructor who has been designated in writing by the Chief Counsel readily available (e.g., telephone, e-mail) to answer questions.
- (3) Corrective Training. Corrective training shall be conducted for personnel who exhibit deficiency in knowledge or understanding of references (a) through (c) and this Instruction. Such deficiencies may be identified as the result of questionable activity reports or by other means. Corrective training shall consist of in-person, verbal or written training sufficient to correct the deficiency administered by an instructor designated in writing by the Chief Counsel.
- i. Intelligence Oversight Inspections. The Chief Counsel shall ensure the conduct of regular inspections of Coast Guard national intelligence components to ensure compliance with applicable statutes and Executive Orders governing the conduct of intelligence activities, and the provisions of references (b) and (c). These inspections shall not interfere with oversight inspections conducted by other authorized entities, including the Inspector General, General Counsel of the Department, Community Management Staff, other IC components, and Intelligence Oversight Board.

- (1) Informal Oversight Inspection. Supervisors of Coast Guard national intelligence components shall conduct informal oversight inspections on a semi-annual basis using Enclosure (2) as a guide.
- (2) Formal Oversight Inspection. The Chief Counsel shall ensure the conduct of formal oversight inspections of all Coast Guard national intelligence components within six months of promulgation of references (b) and (c) and thereafter within two years for each component.
- (a) Formal oversight inspections shall be conducted by personnel designated by the Chief Counsel, such as the servicing legal office responsible for advising the Coast Guard national intelligence component concerned, staff elements of Commandant (G-C2) with oversight expertise, or other IC oversight officials (e.g., Assistant to the Secretary of Defense for Intelligence Oversight). In addition to the areas outlined in Enclosure 2, formal oversight inspections may cover other areas necessary to ensure compliance with references (a) through (c) and this Instruction.
- (b) Upon completion of a formal oversight inspection, the senior inspecting official shall debrief the Supervisor of the national intelligence component and servicing legal office, summarizing key findings, soliciting comments and questions, and, where appropriate, recommending changes to the component's oversight program. The senior inspecting official shall complete a report of inspection for review by the Supervisor. The Supervisor shall have ten days to provide written comments on the inspection to the senior inspecting official. Upon receipt of the Supervisor's comments, if any, the senior inspecting official shall forward a final report within ten days to Commandant (G-LMI), with information copies to the inspected component and Commandant (G-C203).
- j. Identification, Reporting, and Investigation of Questionable Activities. Procedure 15 of reference (b) establishes procedures governing identification, investigation, and reporting of questionable activities.
- (1) Identification. A questionable activity occurs when conduct or activity meets the definition in 4(b)(5).
- (2) Reporting. Personnel shall immediately report any questionable activity by the most rapid means (i.e., voice, e-mail, message) as follows:
- (a) Personnel shall normally submit reports directly to the Supervisor of the Coast Guard national intelligence component concerned.
- (b) Supervisors receiving a report of a questionable activity shall immediately report it by voice or e-mail, using secure means if required, to the following:
1. Servicing legal office;
  2. Commandant (G-C203); and

3. Commandant (G-C2-L).
  - (c) Although reporting of questionable activities through the Supervisor of the Coast Guard national intelligence component concerned is strongly encouraged, personnel may submit reports by any means directly to the servicing legal office, which shall promptly forward reports to Commandant (G-C2-L), who shall inform Commandant (G-C203).
- (3) Review, Investigation, and Final Action on Reports. The servicing legal office and Commandant (G-C2-L) shall promptly review each report of a questionable activity to determine the appropriate course of action as follows:
  - (a) If the questionable activity involves possible violations of federal criminal law by personnel assigned to Coast Guard national intelligence components, or intelligence activities that may be unlawful or contrary to Executive Order or presidential directive, the servicing legal office or Commandant (G-C2-L) shall promptly notify Commandant (G-LMI) and the Chief Counsel.
    1. In accordance with section 1.7(a) of reference (a) regarding reporting of certain federal crimes to the Attorney General, the Chief Counsel shall report possible violations of federal criminal law by personnel assigned to Coast Guard national intelligence components to the General Counsel and Inspector General of the Department and the Attorney General in accordance with procedures established by the Department of Justice.
    2. The Chief Counsel shall refer the matter for investigation to the appropriate investigative authority (e.g., Federal Bureau of Investigation, Inspector General, Coast Guard Investigative Service).
  - (b) If the questionable activity does not involve matters specified in the above paragraph, but warrants further inquiry, the servicing legal office shall refer the report to the Supervisor of the Coast Guard national intelligence component concerned for a Procedure 15 investigation. If the questionable activity does not constitute a violation of procedures or corrective action may be taken without further inquiry, the servicing legal office shall refer the report to the Supervisor of the Coast Guard national intelligence component concerned for final action with accompanying recommendation.
  - (c) Supervisors of Coast Guard national intelligence components that receive referrals from the servicing legal office shall take action in accordance with the recommendation of the servicing legal office.
    1. If the servicing legal officer refers the matter for a Procedure 15 investigation, the Supervisor shall conduct a Procedure 15 investigation.
      - a. Procedure 15 investigations are informal inquiries into the reported questionable activity to determine the facts of the matter, identify possible causes, and take corrective action to prevent recurrence. Procedure 15 investigations are intended to identify the cause of questionable activities and take prompt action to address

them. They are comparable to a standard investigation (formerly called “informal investigation”) described in the Administrative Investigations Manual (AIM), COMDTINST M5830.1 (series). They are not preliminary inquiries or military justice investigations as described in the Uniform Code of Military Justice or Military Justice Manual, COMDTINST M5810.1 (series).

- b. Procedure 15 investigations shall be completed within 30 days in a memorandum format (either Letter of Incident Report or Investigative Report as described in the AIM) and forwarded via the chain of command, including review by the servicing legal office, to Commandant (G-C203), copy to Commandant (G-C2-L) and Commandant (G-LMI).
2. If the servicing legal office refers the matter for final action without a requirement for further inquiry, the Supervisor shall take final action in accordance with the recommendation.
- k. Periodic Intelligence Oversight Reports. In accordance with section 2.4 of Executive Order 12863, the Chief Counsel shall, on a quarterly basis and from time to time as necessary and appropriate, prepare and submit a report to the Inspector General and General Counsel of the Department for transmission to the Intelligence Oversight Board describing those intelligence activities determined to be unlawful or contrary to an Executive Order or presidential directive, and actions taken with respect to such activities. The reports shall also include significant oversight activities undertaken during the quarter and any suggestions for improvements in the oversight system.
    - (1) Supervisors of national intelligence components shall submit not later than 31 December, 31 March, 30 June, and 30 September of each calendar year a Quarterly Intelligence Oversight Report to Commandant (G-LMI), copy to Commandant (G-C2-L) and Commandant (G-C203).
    - (2) Commandant (G-C2-L) shall prepare and submit through Commandant (G-LMI) not later than 15 January, 15 April, 15 July, and 15 October of each calendar year a consolidated Quarterly Intelligence Oversight Report for the Chief Counsel to transmit to the General Counsel and Inspector General of the Department.
  - l. Congressional oversight. Reference (d) requires that SOICs keep the congressional intelligence committees (i.e., House Permanent Select Committee on Intelligence (HPSCI) and Senate Select Committee on Intelligence (SSCI)) “fully and currently informed” of intelligence activities, including “significant anticipated intelligence activities” and any “significant intelligence failure.” Reference (d) also requires SOICs to furnish congressional intelligence committees with any information, other than covert actions, within their custody or control requested by the committees to carry out their responsibilities. The Director of Central Intelligence (DCI) has issued Standards and Procedures for Intelligence Community Reporting of Significant

Intelligence Activities (2003), see Enclosure (5), which is binding on the Coast Guard National Intelligence Element.

(1) Commandant (G-C202), in consultation with Commandant (G-C2-L), shall conduct Section 502 notifications to HPSCI/SSCI in accordance with Enclosure (5) and applicable Department policy governing Section 502 notifications.

(2) Commandant (G-C202) shall coordinate Section 502 notifications with Commandant (G-ICA), to the extent such coordination does not risk unauthorized disclosure of classified information relating to sensitive intelligence sources and methods.

5. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this Instruction and have been determined to be not applicable.

6. FORMS/REPORTS. Supervisors of national intelligence components shall ensure that the component keeps an intelligence oversight file containing references (a) through (c) and this Instruction, reports of questionable activity, intelligence oversight inspection reports, and quarterly intelligence oversight reports. Reports shall be maintained for a minimum of 4 years.

a. Reports of Questionable Activity. Anyone may submit a report of questionable activity at any time and by any means available. E-mail reports are acceptable. Voice reports shall be transcribed to a narrative written format that summarizes the information.

(1) Description and nature of questionable activity;

(2) Date, time, and location of occurrence;

(3) Individual or unit responsible for the questionable activity;

(4) Summary of the incident, to include relevant Procedures from references (b) and (c); and

b. Quarterly Intelligence Oversight Reports. Quarterly Intelligence Oversight Reports shall be in writing and include the following:

(1) A description of activities identified during the quarter that were reasonably believed to be illegal or contrary to references (a) through (c). Such activities shall be carried forward to subsequent reports until closed out and final disposition is reported;

(2) Actions taken with respect to such activities;

(3) Significant oversight activities undertaken and training conducted during the quarter; and

(4) Recommendations for improvements in the intelligence oversight system.

c. Oversight Inspection Reports.

- (1) Informal Oversight Inspections. Supervisors shall report informal oversight inspections on Coast Guard memorandum format to file, with Enclosure (4) and any additional checklists used as attachments.
- (2) Formal Oversight Inspections. The senior inspecting official shall report formal oversight inspections on Coast Guard memorandum format, with executive summary, discussion of major and minor issues discovered during the inspection, and, if provided, written comments from the Supervisor of the inspected component. See Enclosure (4).

JOHN E. CROWLEY, JR. /s/  
Chief Counsel

- Encl:
- (1) Intelligence Oversight Quarterly Report
  - (2) Intelligence Oversight Inspection Checklist
  - (3) Intelligence Oversight Awareness Survey
  - (4) Intelligence Oversight Inspection Reports
  - (5) DCI Standards and Procedures for Intelligence Community Reporting of Significant Intelligence Activities (2003)

U.S. Department of  
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United States Coast Guard

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3810

## MEMORANDUM

From: Reporting Command

Reply to  
Attn of: 7-2126

To: Commandant (G-LMI)  
Thru: [Servicing legal office]

Subj: INTELLIGENCE OVERSIGHT QUARTERLY REPORT

Ref: (a) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)  
(b) Classified Supplement to Coast Guard Intelligence Activities, COMDTINST S3821.12 (series)  
(c) Oversight of Coast Guard Intelligence Activities, COMDTINST 3821.14 (series)

1. This is the (reporting command) Quarterly Intelligence Oversight Report for the period XXXX.
2. The first paragraph following the introductory statement of purpose describes those activities that came to the attention of the command during the quarter reasonably believed to be illegal or contrary to Executive Order or other applicable policy or directive, including references (a) through (c). In addition to questionable intelligence activities, include any instances of espionage, even if they have already been reported to the Coast Guard Investigative Service. Also report significant instances of fraud, waste, abuse, standards of conduct or ethics violations, financial misconduct, or conflicts of interest that may adversely affect intelligence operations. Include in this paragraph a description of actions taken with respect to reported questionable activities. If no questionable activities occurred during the reporting period, state that.
3. This paragraph should contain significant activities related to intelligence oversight that occurred during this quarter (training, awareness, familiarization and indoctrination initiatives, published documents, new instructions or policy, etc.). Significant intelligence oversight activities planned for next quarter should also be discussed in this paragraph.
4. Report information about inspection activities that occurred during the quarter, including informal inspections. Report type of inspection, date inspected, key findings and corrective actions taken or intended, if applicable.
5. Used this paragraph to forward suggestions for improvement in the intelligence oversight system.
6. List points of contact, including name, rank, phone number, fax number and e-mail address if applicable.

Encl. (1) to COMDTINST 3821.14

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Encl: Enclosure might include received reports, copies of correspondence related to actions taken, inspection reports, investigation closeouts, etc.

**Intelligence Oversight Inspection Checklist**

Date: \_\_\_\_\_

[Note: Components may add to this checklist for local use.]

ACTIVITY/DETACHMENT: \_\_\_\_\_

POINT(S) OF CONTACT: \_\_\_\_\_

INSPECTOR(S): \_\_\_\_\_

Definition of Terms: For purposes of this checklist, the term Executive Order 12333 compliance shall include compliance/noncompliance with, or violations of, Executive Order 12333, Coast Guard Intelligence Activities, COMDTINST M3820.12 (series), and Classified Supplement to Coast Guard Intelligence Activities, COMDTINST S3821.12 (series), as well as conduct of unauthorized intelligence missions and functions.

1. Arrival/Inbrief.

- a. Are key personnel present (CO, department/division heads, legal advisor) \_\_\_\_\_
- b. Receive command or unit's mission briefing. If not covered, ask command to summarize its Intelligence Oversight program. \_\_\_\_\_
- c. Introduce inspection team and brief the purpose of the Intelligence Oversight inspection, highlighting major areas to be inspected. \_\_\_\_\_
- d. Emphasize inspecting team's interest in discussing recommendations, challenges, issues, or concerns the unit would like addressed. \_\_\_\_\_

2. Intelligence Oversight Program Policy and Administration.

- a. Is a component Intelligence Oversight Official designated in writing (if applicable)? \_\_\_\_\_
- b. Are references required by this instruction on file? \_\_\_\_\_
- c. Does the command have its own instruction on Intelligence Oversight (command discretion; not a requirement)? \_\_\_\_\_
- d. Are copies of quarterly and other questionable activity reports on file and retained for at least 3 years? \_\_\_\_\_
- e. Are references readily accessible to command personnel? \_\_\_\_\_
- f. Who reviews, approves, and releases FIRs/IIRs for the unit? \_\_\_\_\_
- g. Is IOO knowledgeable about his or her duties, general intelligence oversight requirements, reporting and other procedures? \_\_\_\_\_
- h. Is there an Intelligence Collection Manager in the unit? \_\_\_\_\_
- i. Does command have procedures in place to identify all personnel engaged in intelligence activities, and to ensure they operate under the authority and in compliance with Executive Order 12333? \_\_\_\_\_

- j. Are reporting procedures established, understood, and executed? \_\_\_\_\_
- k. Does IOO understand and have access to all the intelligence collection, retention (databases, files), and dissemination procedures and materials within the command for oversight purposes? \_\_\_\_\_
- l. Have any violations occurred? If so, when and how reported? What corrective actions were taken? \_\_\_\_\_
- m. Has the command received any intelligence tasking that could be perceived as contrary to law or regulation? How was it handled? What was the outcome? How was it documented? \_\_\_\_\_
- n. Are any command personnel assigned independent duty or serving in outlying areas? If so, how is I.O. training administered? How is Executive Order 12333 compliance monitored and documented? \_\_\_\_\_
- o. Are contracting activities reviewed for compliance with Executive Order 12333? \_\_\_\_\_
- p. Are the unit's intelligence activities consistent with its mission and functions, and fully authorized? \_\_\_\_\_

3. Intelligence Oversight Training Program. Inspectors will inspect the training program, including its administration, execution, and record-keeping.

Ask the IOO to describe the I.O. training program. Examine records and files. \_\_\_\_\_

Is I.O. training conducted for all newly reporting personnel and documented? \_\_\_\_\_

Is annual refresher training conducted? How? By whom? \_\_\_\_\_

Are training records maintained for at least 3 years? \_\_\_\_\_

What other information, material, or support can the IOO identify to support the I.O. training program? \_\_\_\_\_

4. Operations. Inspectors will visit operating spaces and speak with a random sampling of personnel to evaluate their knowledge of intelligence oversight rules and the obligation to report questionable activities. Inspectors will also distribute copies of the Intelligence Oversight Awareness Survey from Enclosure (3) of this Instruction to a cross-section of the unit and collect completed surveys prior to departure.

Ask personnel to describe their routine, including how they decide to collect, retain, and disseminate intelligence information, and how they would identify and report questionable intelligence activities. \_\_\_\_\_

Do intelligence collection activities involve U.S. Persons, including any intelligence contacts with U.S. companies or commercial activities? \_\_\_\_\_

Do intelligence personnel have working relationships with law enforcement or other personnel, either within or outside the Coast Guard that would require special I.O. sensitivity? \_\_\_\_\_

Has anyone interviewed received or generated any "US YES" FIRs/IIRs? If so, describe the situation. \_\_\_\_\_

Are general I.O. procedures understood and followed by unit personnel? \_\_\_\_\_

Do personnel have adequate knowledge of approval requirements and guidelines for special collection techniques, as specified in Coast Guard Intelligence Activities, COMDTINST M3820.12 (series), and Classified Supplement to Coast Guard Intelligence Activities, COMDTINST S3821.12 (series)? \_\_\_\_\_

What impact do Intelligence Oversight regulations and requirements have on operations? \_\_\_\_\_

Is there adequate understanding of requirements and procedures for reporting questionable intelligence activities? \_\_\_\_\_

Are reporting requirements and procedures publicized? \_\_\_\_\_

Are personnel aware that no adverse action may be taken against them for reporting questionable intelligence activity? \_\_\_\_\_

Are there any indications of violation of law, directives, policy or procedures? \_\_\_\_\_

Has the unit employed any "special collection techniques," and, if so, have required approvals been obtained? \_\_\_\_\_

5. Records and Files. Inspectors will examine intelligence records and files for compliance with collection and retention criteria set forth in COMDINST M3820.10 and COMDTINST SM3820.12.

Ask personnel to describe procedures for dealing with intelligence information that identifies U.S. Persons, with emphasis on how that information is distinguished from other information. \_\_\_\_\_

What databases does the unit have access to that contain information on U.S. persons? \_\_\_\_\_

Are procedures for distinguishing between intelligence and non-intelligence information adequate, especially information that identifies U.S. Persons? \_\_\_\_\_

Are there adequate procedures in place for preventing Executive Order 12333 violations when accessing these databases? \_\_\_\_\_

6. Outbrief.

Review inspection procedures and results. Provide oral summary of findings to head of unit and IOO. \_\_\_\_\_

Ensure the unit has the opportunity to offer suggestions for improvement in the Intelligence Oversight program. \_\_\_\_\_



3. Please annotate the following statements with a true (T) or false (F). All situations assume you are a member of a Coast Guard intelligence component, unit, or staff.

\_\_\_ Intelligence Oversight provisions apply to Coast Guard personnel only when assigned to the Commandant's staff or the Coast Guard Intelligence Coordination Center.

\_\_\_ Assassination is permitted only during time of war.

\_\_\_ For the purposes of Intelligence Oversight, a U.S. corporation is considered a U.S. person.

\_\_\_ A permanent resident alien is also a U.S. Person.

\_\_\_ The collection of intelligence information on a U.S. person is never permitted within the territorial limits of the US.

\_\_\_ Information may be collected on a U.S. person overseas reasonably believed to be engaged in international narcotics activities.

\_\_\_ If a person is unsure whether intelligence was collected properly, he or she may retain it for 120 days to make a determination.

\_\_\_ Intelligence that unintentionally identifies a U.S. Person may not be retained and must be immediately destroyed.

\_\_\_ Intelligence that identifies a U.S. person may not be provided to a local law enforcement authority.

\_\_\_ The term "special collection techniques" refers to HUMINT, SIGINT, IMINT, MASINT, and OSINT.

\_\_\_ Reporting of questionable intelligence activity is mandatory.

\_\_\_ If a report of questionable intelligence activity is determined to be unfounded, punitive action may be taken against the person who reported the activity.

THANK YOU FOR YOUR PARTICIPATION IN THIS SURVEY. You may add additional comments concerning the Intelligence Oversight program in the space below. If you wish to discuss anything about the comments, you may call (202) 267-2126.

U.S. Department of  
Homeland Security

United States  
Coast Guard



United States Coast Guard

2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: G-C2  
Phone: (202) 267-2126

3810

## MEMORANDUM

From: Supervisor, National Intelligence component      Reply to  
Attn of: 7-2126

To: File

Subj: INFORMAL INTELLIGENCE OVERSIGHT INSPECTION REPORT

Ref: (a) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)  
(b) Classified Supplement to Coast Guard Intelligence Activities, COMDTINST  
S3821.12 (series)  
(c) Oversight of Coast Guard Intelligence Activities, COMDTINST 3821.14 (series)

1. Per references (a) through (c), an informal intelligence oversight inspection was conducted on (date). The overall performance in carrying out its intelligence mission effectively and in compliance with applicable law and regulation is evaluated as (satisfactory/unsatisfactory).
2. Narrative executive summary of inspection.
3. Major issues, if any, discovered including specific corrective actions.
4. Minor issues, if any, discovered including specific corrective actions.

#

Copy: Component personnel

U.S. Department of  
Homeland Security

United States  
Coast Guard



United States Coast Guard

2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: G-C2  
Phone: (202) 267-2126

3810

## MEMORANDUM

From: Inspecting Official

Reply to  
Attn of: 7-2126

To: Commandant (G-LMI)  
Thru: [Servicing legal office]

Subj: FORMAL INTELLIGENCE OVERSIGHT INSPECTION REPORT

Ref: (a) Coast Guard Intelligence Activities, COMDTINST M3820.12 (series)  
(b) Classified Supplement to Coast Guard Intelligence Activities, COMDTINST S3821.12 (series)  
(c) Oversight of Coast Guard Intelligence Activities, COMDTINST 3821.14 (series)

1. Per references (a) through (c), a formal intelligence oversight inspection was conducted of (identify component inspected) on (date). The (inspected component's) overall performance in carrying out its intelligence mission effectively and in compliance with applicable law and regulation is evaluated as (satisfactory/unsatisfactory).
2. Narrative executive summary of inspection.
3. Major issues, if any, discovered including specific corrective actions.
4. Minor issues, if any, discovered including specific corrective actions.

#

Copy:

(Inspected component)  
Commandant (G-C202)

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D R A F T

28 March 2003

1                   STANDARDS AND PROCEDURES FOR INTELLIGENCE COMMUNITY  
2                   REPORTING OF SIGNIFICANT INTELLIGENCE ACTIVITIES  
3  
4  
5

6           The Director of Central Intelligence (DCI) establishes the  
7 following standards and procedures for reporting "significant"  
8 intelligence matters to the Congress pursuant to Section 502 of  
9 the National Security Act of 1947 and in a manner consistent with  
10 the constitutional authorities and responsibilities of the  
11 President. In accordance with these standards and procedures, IC  
12 elements will report to the intelligence committees all  
13 "significant" intelligence activities, including any "significant  
14 anticipated intelligence activity" and any "significant  
15 intelligence failure." These standards and procedures do not  
16 apply to covert actions or alter any reporting obligations that  
17 may otherwise apply to an element of the Intelligence Community  
18 (IC).

19  
20           **A. CONGRESSIONAL NOTIFICATION GENERALLY**  
21

22           Section 502 provides that the DCI and the heads of all  
23 departments, agencies, and other entities of the US Government  
24 engaged in intelligence activities shall, to the "extent  
25 consistent with due regard for the protection from unauthorized  
26 disclosure of classified information relating to sensitive  
27 intelligence sources and methods or other exceptionally sensitive  
28 matters," keep the Select Committee on Intelligence of the Senate  
29 and the Permanent Select Committee on Intelligence of the House  
30 of Representatives (the "intelligence committees") "fully and  
31 currently informed of all intelligence activities" other than  
32 covert action. By law, "[a]ny report [under Section 502]  
33 relating to a significant anticipated intelligence activity or a  
34 significant intelligence failure that is submitted to the  
35 intelligence committees . . . shall be in writing." (Emphasis  
36 added)

37  
38           As a matter of DCI policy, reports to the intelligence  
39 committees of other significant matters shall also generally be  
40 submitted in writing.  
41

42           As appropriate, IC elements also are responsible for  
43 reporting matters that are subject to these procedures to other  
44 committees with oversight jurisdiction or appropriations  
45 responsibility for the reporting IC element.  
46

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47 Nothing in these procedures is intended to preclude oral  
48 notification, when deemed appropriate, in advance of written  
49 notification.

50  
51 Where any oral or written notification to Congress involves  
52 information related to a possible crime or related to an ongoing  
53 criminal investigation or prosecution, elements of the IC shall  
54 comply with any requirement to notify, and coordinate any  
55 Congressional notification with, the Department of Justice, as  
56 provided by applicable law and directive, including DCI Directive  
57 2/13, "Communications with Congressional Committees Regarding  
58 Intelligence Information Related to Law Enforcement Matters."

59  
60 **B. FACTORS RELEVANT TO DETERMINING WHETHER A MATTER**  
61 **IS SIGNIFICANT**

62  
63 Determining whether a matter is "significant" is a matter of  
64 judgment based on all the facts and circumstances known to the IC  
65 element making the decision and on the nature and extent of  
66 Congressional knowledge of the matter through prior notification  
67 or otherwise. While there is, and can be, no bright-line test,  
68 the following illustrate the types of activities that have  
69 warranted reporting in the past and, in general, are likely to  
70 warrant reporting in the future pursuant to Section 502 and in a  
71 manner consistent with the constitutional prerogatives of the  
72 President:

73  
74 (1) Significant Anticipated Intelligence Activities

75  
76 Significant anticipated intelligence activities that  
77 are reportable under Section 502 require written  
78 notification. Such activities ordinarily requiring  
79 notification include:

- 80  
81 (a) An intelligence activity that entails a  
82 significant risk of exposure or compromise, and is  
83 likely to result in the loss of human life;  
84  
85 (b) An activity that raises or is expected to have  
86 a major impact on important foreign policy or national  
87 security concerns;  
88  
89 (c) An intelligence element's transfer, to a  
90 recipient outside of that IC element, of defense  
91 articles, personnel services, or "controlled equipment"

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92 valued in excess of \$1,000,000 measured in accordance  
93 with Section 505 of the National Security Act of 1947;  
94

95 (d) Extensive organizational changes, or  
96 deployment of new collection techniques that represent  
97 a comprehensive departure from previous operations or  
98 activities or that result from evidence of significant  
99 foreign developments;

100  
101 (e) A significant action, other than a covert  
102 action, undertaken pursuant to specific direction from  
103 the President or the National Security Council; or  
104

105 (f) Budgetary, acquisition, or reprogramming  
106 actions meeting reporting thresholds, of "special  
107 interest" to Congress, or otherwise of significance,  
108 such as an activity expected to require an unusually  
109 large increase in resources.

110  
111 (2) Significant Intelligence Failures  
112

113 Significant intelligence failures that are reportable  
114 under Section 502 require written notification. Such  
115 failures, which generally are extensive in scope, continuing  
116 in nature, and likely to have a serious impact on U.S.  
117 national security interests, may include:

118  
119 (a) The loss or compromise of classified  
120 intelligence information on such a scale or over such  
121 an extended period as to indicate the possibility of a  
122 systemic compromise, or a loss or compromise that poses  
123 a substantial risk to US national security activities;  
124

125 (b) A pervasive failure, interruption or  
126 compromise of a collection capability or collection  
127 system;  
128

129 (c) An unanticipated loss of life in the  
130 performance of an intelligence activity; or  
131

132 (d) A conclusion that a finished intelligence  
133 product is the result of foreign deception or denial  
134 activity, or otherwise contains major errors in  
135 analysis, with a significant impact on US national  
136 security policies, programs, or activities.  
137

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138 (3) Significant Matters Generally  
139

140 In addition to reporting "significant anticipated  
141 intelligence activities" and "significant intelligence  
142 failures" in accordance with these procedures, IC elements  
143 shall report other significant matters to keep Congress  
144 "fully and currently informed," consistent with Section 502.  
145 It is DCI policy that such matters generally shall be  
146 reported to Congress in writing. Such matters may include:  
147

148 (a) Important programmatic developments likely to  
149 be of congressional interest, such as major cost  
150 overruns or the termination of a significant contract;  
151

152 (b) Important developments that affect  
153 intelligence programs, projects, or activities and that  
154 are likely to be of congressional interest because of  
155 their impact on national security or foreign policy;  
156

157 (c) An intelligence activity believed to be a  
158 probable violation of US law, including any corrective  
159 action taken or planned in connection with such  
160 activity;  
161

162 (d) Significant misconduct by an employee or  
163 asset, including human rights violations;  
164

165 (e) Updates on significant developments in, or the  
166 resolution of, matters previously reported under these  
167 procedures;  
168

169 (f) Major intelligence activities that pose a  
170 substantial risk of appearing in the domestic or  
171 foreign public media other than as an official  
172 dissemination; or  
173

174 (g) A substantial change in the capabilities or  
175 vulnerabilities of US intelligence operations or  
176 intelligence systems.  
177

178 C. FORM AND DOCUMENTATION OF NOTIFICATION

179 (1) Written notification will be provided to Congress  
180 with respect to any "significant anticipated intelligence  
181 activity" and any "significant intelligence failure"  
182 reportable under Section 502. Such written notification  
183

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184 shall contain "[a] concise statement of any facts pertinent  
185 to such report [and an] explanation of the significance of  
186 the intelligence activity or intelligence failure covered by  
187 such report," in accordance with Section 502 of the National  
188 Security Act of 1947. In addition, written notification in  
189 the form prescribed by this subsection shall generally be  
190 provided for other "significant" matters.

191  
192 (2) Preliminary oral notification may be provided with  
193 respect to any matter to be subsequently reported to  
194 Congress in writing. All oral notifications, regardless of  
195 whether they are preliminary or designed to serve as the  
196 notification itself, must be documented with a brief  
197 synopsis of the pertinent facts and the significance of the  
198 reported matters, the date of the notification, the office  
199 responsible for the subject of the notification, and the  
200 congressional members and staff notified. Attached at Annex  
201 A is the standard form to be used for documenting oral  
202 notifications, whether preliminary or final.

203  
204 **D. DCI NOTIFICATION AND COORDINATION REQUIREMENTS**

205  
206 (1) Within 30 days of the issuance of these standards  
207 and procedures, heads of IC elements will designate a  
208 specific official within the IC element to serve as the  
209 element's focal point with responsibility to ensure:

210  
211 (a) Notification to the DCI, through the DCI's  
212 Office of Congressional Affairs (OCA), of all reporting  
213 to Congress under these procedures, whether written or  
214 oral, which shall be provided in the following manner:

215  
216 (i) except as provided in subparagraph (ii),  
217 for all matters subject to reporting under these  
218 procedures, the reporting element shall provide to  
219 OCA a copy of the written notification and  
220 documentation of any preliminary or final oral  
221 notification at the time notification is made to the  
222 intelligence committees;

223  
224 (ii) for matters where disclosure of  
225 information related to a particular activity  
226 considered by the reporting element to be of  
227 exceptional import (for example, the information  
228 could jeopardize sensitive sources and methods,

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229 impair foreign relations, national security, the  
230 deliberative processes of the Executive, or the  
231 performance of the Executive's constitutional  
232 duties, or is otherwise considered exceptionally  
233 significant), OCA shall be provided prior notice of  
234 the matter to ensure appropriate DCI involvement in  
235 the notification decision, including any immediate  
236 steps necessary to address the matter  
237

238 (b) Coordination, as appropriate, within the IC  
239 and with other departments and agencies of the  
240 Executive Branch; and  
241

242 (c) Reporting that is timely, accurate and  
243 complete.  
244

245 (2) OCA shall ensure the DCI is kept fully and  
246 currently informed of those instances where disclosure of  
247 information related to a particular activity could  
248 jeopardize sensitive sources and methods, impair foreign  
249 relations, national security, the deliberative processes of  
250 the Executive, or the performance of the Executive's  
251 constitutional duties, is otherwise considered exceptionally  
252 significant, or where OCA otherwise determines it  
253 appropriate. OCA shall concurrently inform the DCI's Office  
254 of General Counsel in all instances in which the DCI is  
255 informed of a notification under this subsection.  
256

#### 257 E. IMPLEMENTATION

258  
259 Each IC element shall confirm to the DCI within 60 days of  
260 the issuance of these standards and procedures that it has  
261 implementing procedures in force.  
262  
263  
264

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264 **RECORD OF ORAL NOTIFICATION OF SIGNIFICANT INTELLIGENCE ACTIVITY**

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DATE OF REPORT

SUBJECT OF NOTIFICATION

REPORTING IC ELEMENT

COMMITTEE PERSONNEL NOTIFIED:

SUBSTANCE OF NOTIFICATION:

FOLLOW-UP WRITTEN NOTIFICATION ANTICIPATED:  YES  NO

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