



Department of Defense **DIRECTIVE**

NUMBER 5240.02

March 17, 2015

Incorporating Change 1, May 16, 2018

USD(I)

SUBJECT: Counterintelligence (CI)

References: See Enclosure 1

1. PURPOSE. This directive:

a. Reissues DoD Directive (DoDD) O-5240.02 (Reference (a)) to update established policy and assign responsibilities for conducting CI activities and reporting CI information to Congress, the Secretary of Defense, and the Under Secretary of Defense for Intelligence (USD(I)) in accordance with DoDD 5143.01 (Reference (b)).

b. Incorporates and cancels the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence Memorandum (Reference (c)) and USD(I) Memorandums (References (d) and (e)).

2. APPLICABILITY. This directive applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands (CCMDs), the Office of the Inspector General of the Department of Defense (OIG DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this directive as the "DoD Components").

3. POLICY. It is DoD policy that:

a. CI activities are undertaken as part of an integrated DoD and national effort to detect, identify, assess, exploit, penetrate, degrade, and counter or neutralize espionage, intelligence collection, sabotage, sedition, subversion, assassination, and terrorist activities conducted for or on behalf of foreign powers, organizations, persons, or their agents directed against U.S. national security interests or DoD and its personnel, information, materiel, facilities, and activities.

b. CI activities are undertaken to support the four CI missions of:

(1) Countering espionage, international terrorism, and the CI insider threat.

- (2) Support to force protection.
- (3) Support to the defense critical infrastructure program.
- (4) Support to research, development, and acquisition.

c. CI activities are conducted in accordance with applicable statutes, Executive Order 12333, DoDD 5240.01, DoD 5240.1-R, DoDD 5400.11, and DoD Instruction (DoDI) 1000.29 (References (f) through (j)). CI activities:

(1) Within the United States are coordinated and conducted according to the Memorandum of Agreement (MOA) between the Attorney General and the Secretary of Defense and its supplement (References (k) and (l)) or their successor agreements.

(2) Outside the United States are coordinated in accordance with Annex 3 to the MOA Between the Central Intelligence Agency and DoD (Reference (m)) and the applicable Intelligence Community Directives.

d. CI activities are integrated, as appropriate, into all operations, programs, systems, exercises, planning, doctrine, strategies, policies, and information architectures.

e. DoD maintains a CI presence in designated overseas locations through force protection detachments (FPDs). FPDs support the CCMDs by detecting and warning of threats to in-transit and assigned DoD personnel and resources.

f. Contractors will not direct or control CI activities or otherwise engage in the performance of inherently governmental functions in accordance with DoDI 1100.22 (Reference (n)).

g. CI elements will inform the DoD Components of planned or ongoing CI activities taking place within the Component's operational area or affecting the Component's responsibilities.

h. Information is reported to Congress in accordance with section 2723 of Title 10, United States Code (U.S.C.), section 3092 of Title 50, U.S.C., Intelligence Community Directive 112, and DoDI O-5100.94 (References (o), (p), (q), and (r)).

i. CI elements remain under the command and control of their respective DoD Components, except when a Combatant Commander (CCDR) or a joint force commander is authorized to assume operational control of designated CI elements. The Military Departments maintain control over CI investigations for those designated CI elements.

j. All personnel conducting CI activities must successfully complete formal CI training approved by the USD(I), the Secretaries of the Military Departments, or the Director, Defense Intelligence Agency (DIA).

k. CI personnel may be assigned or detailed to assist and conduct CI activities in support of DoD Components, federal task forces, joint terrorism task forces, or other federal agencies, consistent with DoDI 3025.21 and DoDI 1000.17 (References (s) and (t)), and applicable agreements.

l. Memorandums of agreement or memorandums of understanding between a CI element and a non-DoD organization will be coordinated with the Office of the USD(I) and Director, DIA.

m. The DoD Components will use USD(I)-approved CI information systems and architectures for CI management and reporting.

n. The DoD Components will not disclose planned, ongoing, or previous CI activities without authorization from the CI element conducting the CI activity.

o. DoD personnel, regardless of rank or position, will not inappropriately interfere with CI activities. Interference includes, but is not limited to, unauthorized disclosure of information or actions that would compromise CI investigations, inquiries, operations, sources, or methods. Nothing in this directive is intended to limit the authority of the OIG DoD pursuant to the Inspector General Act of 1978, as amended (Reference (u)).

4. RESPONSIBILITIES. See Enclosure 2.

5. RELEASABILITY. **Cleared for public release.** This Directive is available on the Directives Division Website at <http://www.esd.whs.mil/DD/>.

6. SUMMARY OF CHANGE 1. The changes to this issuance are administrative and updates the releasability statement and references for accuracy.

7. EFFECTIVE DATE. This directive is effective March 17, 2015.

A handwritten signature in black ink, appearing to read "Robert O. Work". The signature is fluid and cursive, with the first name "Robert" being the most prominent part.

Robert O. Work
Deputy Secretary of Defense

Enclosures

1. References
2. Responsibilities
3. Notification of CI Activities

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive O-5240.02, "Counterintelligence," December 20, 2007, as amended (hereby cancelled)
- (b) DoD Directive 5143.01, "Under Secretary of Defense for Intelligence (USD(I)), " October 24, 2014, as amended
- (c) Assistant Secretary of Defense for Command, Control, Communications, and Intelligence Memorandum, "Congressional Notification of Significant Counterintelligence Activities," April 17, 1998 (hereby cancelled)
- (d) Under Secretary of Defense for Intelligence Memorandum, "Reporting Significant Counterintelligence Activity," July 18, 2003 (hereby cancelled)
- (e) Under Secretary of Defense for Intelligence Memorandum, "Mission Tasking Authority," October 24, 2005 (hereby cancelled)
- (f) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, as amended
- (g) DoD Directive 5240.01, "DoD Intelligence Activities," August 27, 2007, as amended
- (h) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons," December 7, 1982, as amended
- (i) DoD Directive 5400.11, "DoD Privacy Program," October 29, 2014
- (j) DoD Instruction 1000.29, "DoD Civil Liberties Program," May 17, 2012, as amended
- (k) Memorandum of Agreement Between the Attorney General and the Secretary of Defense, "Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation (U)," April 5, 1979¹
- (l) Supplement to the 1979 Federal Bureau of Investigation and Department of Defense Memorandum of Understanding, "Coordination of Counterintelligence Matters Between FBI and DoD (U)," June 3 and June 20, 1996¹
- (m) Annex 3 to the Memorandum of Agreement Between the Central Intelligence Agency and the Department of Defense, "Procedures," December 6, 2007¹
- (n) DoD Instruction 1100.22, "Policy and Procedures for Determining Workforce Mix," April 12, 2010
- (o) Title 10, United States Code
- (p) Title 50, United States Code
- (q) Intelligence Community Directive 112, "Congressional Notification," November 16, 2011
- (r) DoD Instruction O-5100.94, "Oversight, Coordination, Assessment, and Reporting of DoD Intelligence and Intelligence-Related Sensitive Activities," September 27, 2011, as amended
- (s) DoD Instruction 3025.21, "Defense Support of Civilian Law Enforcement Agencies," February 27, 2013
- (t) DoD Instruction 1000.17, "Detail of DoD Personnel to Duty Outside the Department of Defense," October 30, 2013
- (u) Inspector General Act of 1978, as amended, title 5, United States Code, Appendix (v)

¹ Copies may be requested from the Counterintelligence and Federal Law Enforcement Support Division, DDI(I&S), Room 3C1088, 5000 Defense Pentagon, Washington, DC 20301-5000.

- (v) DoD Directive 5105.21, "Defense Intelligence Agency (DIA)," March 18, 2008
- (w) DoD Instruction 5240.10, "Counterintelligence (CI) in the Combatant Commands and Other DoD Components," October 5, 2011, as amended
- (x) DoD Directive 5240.06, "Counterintelligence Awareness and Reporting (CIAR)," May 17, 2011, as amended
- (y) DoD Instruction 5240.04, "Counterintelligence (CI) Investigations," April 1, 2016

ENCLOSURE 2
RESPONSIBILITIES

1. USD(I). The USD(I):
 - a. Develops, coordinates, and oversees CI policy and activities.
 - b. Notifies OSD senior officials on planned releases of CI information to Congress and other information in accordance with Enclosure 3 of this directive as necessary.
 - c. Tasks the DoD Component heads when necessary to accomplish CI objectives.
 - d. Authorizes the DoD Components to conduct offensive CI operations (OFCO).
 - e. Serves as the U.S. National CI Policy Advisor to the Supreme Headquarters Allied Powers Europe for consultation and coordination of policy matters.
 - f. Approves DoD CI strategies.
 - g. Designates and approves information systems for CI management and reporting.
 - h. Represents the Secretary of Defense to the National CI Policy Board in accordance with section 3381 of Reference (p).
 - i. Resolves CI issues that cannot be resolved among the DoD Components.

2. DIRECTOR, DIA. Under the authority, direction, and control of the USD(I) and in addition to the responsibilities in section 6 of this enclosure, the Director, DIA:
 - a. Serves as the Defense CI Manager to provide for centralized management of DoD CI activities.
 - (1) Exercises CI mission tasking authority (MTA) over the DoD CI enterprise.
 - (2) Publishes guidance, standards, and procedures in support of DoD policy.
 - b. May appoint functional managers to be the DoD lead and conduct functional management for specific CI activities in accordance with appropriate DoD policy.
 - c. Conducts CI analysis and production on foreign intelligence entity (FIE) threats.
 - d. Validates, registers, publishes, and reviews national and DoD CI collection requirements.

- e. Validates CI production requirements and provides them to the DoD Component production offices.
- f. Develops, coordinates, and recommends DoD CI strategies to the USD(I) for approval.
- g. In coordination with the appropriate DoD Components, develops, manages, and maintains the information systems used for CI management and reporting.
- h. Maintains a process to gather, prioritize, and index CI requirements; monitors completion of the requirements.
- i. Maintains a system to identify and share CI lessons learned, best practices, and proactive CI initiatives.
- j. In those instances where the National Counterintelligence Executive (NCIX) requests CI information from the DoD Components, collects the DoD Component responses and provide NCIX with the consolidated DoD response. DIA coordinates the DoD response with the appropriate DoD Components.
- k. Provides advanced and joint CI training within DoD. Coordinates with the DoD Components on proposed training content and programs.
- l. Recognizes outstanding DoD CI personnel through an annual DoD CI awards program.
- m. Manages the Integrated Defense Source Registration System (IDSRS) and conducts name checks as requested.
- n. Reviews CI training materials proposed for release to foreign nationals and periodically assesses the impact of these releases upon the DoD.
- o. Recommends CI policy changes to the USD(I).
- p. Provides CI staff support to the Chairman of the Joint Chiefs of Staff in accordance with DoDD 5105.21 (Reference (v)).

3. DIRECTOR, NATIONAL SECURITY AGENCY/CHIEF, CENTRAL SECURITY SERVICE (DIRNSA/CHCSS). Under the authority, direction, and control of the USD(I) and in addition to the responsibilities in section 6 of this enclosure, the DIRNSA/CHCSS provides signals intelligence in support of CI activities.

4. DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY (NGA). Under the authority, direction, and control of the USD(I) and in addition to the responsibilities in section 6 of this enclosure, the Director, NGA, provides geospatial intelligence in support of CI activities.

5. DIRECTOR, DEFENSE THREAT REDUCTION AGENCY (DTRA). Under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics through the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs, and in addition to the responsibilities in section 6 of this enclosure, the Director, DTRA, provides CI functional services and analysis, as appropriate, in support of international arms control agreements and regimes regarding weapons of mass destruction.

6. DoD COMPONENT HEADS. The DoD Component heads:

- a. Establish and resource CI elements to conduct CI activities, as authorized, or request CI support in accordance with DoDI 5240.10 (Reference (w)).
- b. Integrate CI into the DoD Component insider threat program.
- c. Adhere to section 2 of Enclosure 3 of this directive when providing CI information to Congress.
- d. Notify the USD(I) of CI information in accordance with section 3 of Enclosure 3.
- e. Provide the Director, DIA, with CI training materials proposed for release to foreign nationals.
- f. Respond to mission taskings from the Director, DIA.
- g. Participate in the DIA process to gather, prioritize, and index CI needs and monitor completion of the requirements.
- h. Notify the Director, DIA, upon receipt of NCIX requests for CI information. If multiple components are tasked, send responses to the Director, DIA, for the consolidated DoD response.
- i. Coordinate with the Director, DIA, on proposed DoD Component advanced and joint CI training.
- j. Conduct CI awareness training in accordance with DoDD 5240.06 (Reference (x)).
- k. In coordination with the organic or supporting CI organization, develop potential requirements for offensive CI operations in accordance with Reference (w).
- l. To the greatest extent practicable, provide CI personnel with the necessary language skills and regional expertise prior to assignment, deployment, or travel to foreign countries.
- m. Register CI sources in registries or databases that are compatible with IDSRS.

7. SECRETARIES OF THE MILITARY DEPARTMENTS. In addition to the responsibilities in section 6 of this enclosure, the Secretaries of the Military Departments:

- a. Provide for the conduct, direction, management, coordination, and control of CI activities pursuant to sections 3013, 5013, and 8013 of Reference (o).
- b. For designated CI elements under command authority of the CCDRs, retain administrative control and control over CI investigations.
- c. Provide logistics, administrative, and other support to designated FPDs as necessary.

8. SECRETARY OF THE ARMY. In addition to the responsibilities in sections 6 and 7 of this enclosure, the Secretary of the Army will provide for the conduct, direction, management, coordination, technical control and oversight of CI activities that are conducted by the 650th Military Intelligence Group in support of the Supreme Allied Commander Europe.

9. CHAIRMAN OF THE JOINT CHIEFS OF STAFF. In addition to the responsibilities in section 6 of this enclosure, the Chairman of the Joint Chiefs of Staff serves as a member of the National CI Policy Board in accordance with section 3381 of Reference (p).

10. CCDRs. In addition to the responsibilities in section 6 of this enclosure and through the Chairman of the Joint Chiefs of Staff, the CCDRs:

- a. Appoint a CI staff officer to serve as the CI coordinator for the CCMD in accordance with Reference (w).
- b. Coordinate with the Military Department CI organizations (MDCOs) to synchronize activities and assure unity of effort.
- c. Analyze and disseminate FIE threat information to meet CCMD requirements and to contribute to national products.
- d. Exercise command authority of designated CI elements, except for CI investigations, when authorized by the Secretary of Defense.

ENCLOSURE 3

NOTIFICATION OF CI ACTIVITIES

1. As the senior DoD CI official below the Secretary and Deputy Secretary of Defense in accordance with References (b) and section 137 of Reference (o), the USD(I) will be notified of CI activities as described in section 2 and 3 of this Enclosure.

2. Before providing any CI information to Congress, the DoD Components will notify the USD(I) through the USD(I) congressional activities staff. The notification will occur as early as possible but not later than 24 hours prior to the release of the information.

a. Notification is mandatory regardless of the manner in which the CI information is to be passed to Congress, such as formal, informal, oral, or written.

b. Such releases include, but are not limited to, legislative proposals, testimony, briefings, meetings, and responses to requests for information.

3. The DoD Components will promptly notify the USD(I), through the USD(I) CI staff, of information concerning:

a. CI failures relating to any defense operation, system, or technology of the United States that will likely to cause significant harm or damage to the national security interests pursuant to section 2723 of Reference (o).

b. Investigations involving spying, espionage, sabotage, treason, sedition, subversion, assassination, and international terrorism directed against DoD. This includes the anticipated arrest of DoD personnel as a result of such investigations. The Director, DIA, will also be notified regarding investigations in accordance with DoDI 5240.04 (Reference (y)).

c. CI activities that can be reasonably expected to result in media coverage or diplomatic actions against the U.S. Government.

d. CI activities involving measures requiring approval of the Office of the General Counsel of the Department of Defense, the Attorney General of the United States, or the Foreign Intelligence Surveillance Court in accordance with Reference (b).

e. Anything not specifically listed in this section but which, in the opinion of the DoD Component head, warrants notification.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

| | |
|---------------|--|
| CCMD | Combatant Command |
| CCDR | Combatant Commander |
| CI | counterintelligence |
| | |
| DIA | Defense Intelligence Agency |
| DIRNSA/CHCSS) | Director, National Security Agency/Chief, Central Security Service |
| DoDD | DoD directive |
| DoDI | DoD instruction |
| DTRA | Defense Threat Reduction Agency |
| | |
| FIE | foreign intelligence entity |
| FPD | force protection detachment |
| | |
| IDSRS | Integrated Defense Source Registration System |
| | |
| MDCO | Military Department counterintelligence organization |
| MTA | mission tasking authority |
| | |
| NCIX | National Counterintelligence Executive |
| NGA | National Geospatial-Intelligence Agency |
| | |
| OIG DoD | Office of the Inspector General of the Department of Defense |
| OFCO | offensive CI operations |
| | |
| U.S.C. | United States Code |
| USD(I) | Under Secretary of Defense for Intelligence |

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this directive.

CI. Information gathered and activities conducted to identify, deceive, exploit, disrupt, or protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on

behalf of foreign powers, organizations, or persons or their agents, or international terrorist organizations or activities.

CI activity. One or more of the CI functions of analysis, collection, functional services, investigations, operations, and production.

CI analysis. The process of examining and evaluating information to determine the nature, function, interrelationships, personalities, and intent regarding the intelligence capabilities of an FIE.

CI collection. The systematic acquisition of intelligence information to answer CI collection requirements.

CI functional services. CI activities conducted to support the four missions of CI and that enable one or more of the other CI functions.

CI investigations. Formal investigative activities undertaken to determine whether a particular person is acting for or on behalf of, or an event is related to, a foreign power engaged in spying or committing espionage, sabotage, treason, sedition, subversion, assassinations, or international terrorist activities, and to determine actions required to neutralize such acts.

CI operations. Proactive activities designed to identify, deceive, exploit, disrupt, neutralize, or deter FIE activities.

CI production. The creation of finished intelligence products incorporating CI analysis in response to known or anticipated customer CI concerns.

CI element. An organization, unit, office, or other group that conduct CI activities.

CI information. Knowledge or intelligence regarding CI activities. This includes knowledge or intelligence regarding CI programs, budgets, trends, and other items related to CI, as defined in Reference (f).

CI insider threat. A person, known or suspected, who uses their authorized access to DoD facilities, personnel, systems, equipment, information, or infrastructure to damage and disrupt operations, compromise DoD information, or commit espionage on behalf of an FIE.

contractor. Any individual, firm, corporation, partnership, association, or other legal non-Federal entity that enters into a contract directly with the Department of Defense to furnish services, supplies, or both, including construction. The term “contractor” may include U.S. nationals, local citizens, or third-country nationals.

Defense CI Manager. The official responsible who provides for the centralized management of defense CI enterprise-wide activities.

FIE. Any known or suspected foreign organization, person, or group (public, private, or governmental) that conducts intelligence activities to acquire U.S. information, block or impair U.S. intelligence collection, influence U.S. policy, or disrupts U.S. systems and programs. The term includes foreign intelligence and security services and international terrorists.

FPD. A CI element that provides CI support to transiting and assigned ships, personnel, and aircraft in regions of elevated threat.

functional management. Enterprise-wide guidance and direction to improve effectiveness and efficiency of a specific CI activity. Functional management provides the means for collaboration, coordination, and support to the activity.

functional manager. An individual appointed to lead the effort for DoD or a particular DoD Component.

MDCO. A CI element, within a Military Department, that is authorized to conduct CI investigations. The MDCOs are Army CI, Naval Criminal Investigative Service, and the Air Force Office of Special Investigations.

MTA. The authority to task a DoD Component's organic CI element, through appropriate command channels, to execute a specific CI mission or conduct a CI activity within that Component's charter.