



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY
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SECNAVINST 5000.34B
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13 August 1998

SECNAV INSTRUCTION 5000.34B

From: Secretary of the Navy
To: All Ships and Stations

Subj: OVERSIGHT OF COMPARTMENTED PROGRAMS AND SENSITIVE ACTIVITIES WITHIN THE DEPARTMENT OF THE NAVY (DON)

Encl: (1) Senior Review Board Jurisdiction and Membership
(2) Special Programs Review Group Jurisdiction and Membership
(3) Special Activities Review Board Jurisdiction and Membership

Ref: (a) DoD Directive 0-5205.7, Special Access Program (SAP) Policy, 13 Jan 97 (NOTAL)
(b) SECNAVINST S5460.3B, Control of Special Access Programs Within the Department of the Navy (U), 30 Aug 91 (NOTAL)
(c) DoD Directive 5240.1, DoD Intelligence Activities, 25 Apr 88 (NOTAL)
(d) SECNAVINST 3820.3D, Oversight of Intelligence Activities Within the Department of the Navy, 26 Aug 88 (NOTAL)
(e) DoD Directive 5240.2, DoD Counterintelligence, 22 May 97 (NOTAL)
(f) SECNAVINST 3850.2B, Department of the Navy Counterintelligence, 24 Feb 91 (NOTAL)
(g) DoD Directive S5210.36, Provision of DoD Sensitive Support to DoD Components and Other Departments and Agencies of the U.S. Government (U), 10 Jun 86 (NOTAL)
(h) DoD Directive 5525.5, DoD Cooperation with Civilian Law Enforcement Officials, 15 Jan 1986 (NOTAL)
(i) SECNAVINST 5820.7B, Cooperation with Civilian Law Enforcement Officials, 28 Mar 88
(j) SECNAVINST 5520.3B, Criminal and Security Investigations and Related Activities Within the Department of the Navy, 4 Jan 93
(k) SECNAVINST S3810.5A, Management of Foreign Intelligence, Counterintelligence and Investigative Activities within the Department of the Navy (U), 22 Apr 85 (NOTAL)
(l) SECNAVINST 3820.2D, Investigative and Counterintelligence Collection and Retention Guidelines Pertaining to the Department of the Navy, 20 Aug 80
(m) SECNAVINST 7042.12A, Guidelines for Use of Emergency and Extraordinary Expense Funding for Intelligence and Investigative Purposes, 13 Nov 86 (NOTAL)
(n) SECNAVINST 7042.7H, Guidelines for Use of Official Representation Funds, 5 Dec 90 (NOTAL)
(o) CJCSI 2420.01A, United States Freedom of Navigation Program and Sensitive Area Reporting, 18 Dec 95 (NOTAL)
(p) CJCSM 3500.03, Joint Training Manual for the Armed Forces of the United States, 01 Jun 96 (NOTAL)
(q) CJCSI 3250.01, Policy Guidance for Sensitive Airborne and Maritime Surface Reconnaissance Operations, 06 May 94 (NOTAL)
(r) CJCSI 3250.02, Classified Subject, 23 Nov 95 (NOTAL)
(s) CJCSI 3710.01, Delegation of Authority for Approving Operational Support to Drug Law Enforcement Agencies and Counterdrug-Related Deployment of DOD Personnel, 28 May 93 (NOTAL)

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- (t) SECNAVINST 5730.13, Congressional Notification of Intelligence Matters Having Significant Operational or Acquisition Consequences, 29 Sep 95 (NOTAL)
- (u) SECNAVINST 7510.7E, Department of the Navy Internal Audit, 11 Oct 91

1. Purpose

a. To assign the Under Secretary of the Navy (UNSECNAV) authority and responsibility for the oversight of compartmented programs and sensitive activities within the DON.

b. To establish policy and assign responsibility for the oversight of compartmented programs and sensitive activities within the DON.

c. To establish a Senior Review Board (SRB), Special Programs Review Group (SPRG) and Sensitive Activities Review Board (SARB) to assist the Under Secretary of the Navy with oversight functions as appropriate.

This instruction is a complete revision which should be read in its entirety.

2. Cancellation. UNSECNAV Memorandum dated 15 January 1993(U) (Subject: Oversight of Compartmented Activities in the DON (NOTAL)); SECNAVINST 5000.34A.

3. Scope and Applicability. This instruction governs all sensitive activities which are under the jurisdiction and operational control of the DON. It applies to all components and activities and their personnel, supporting contractors and consultants.

4. Background

a. References (a) and (b) authorize the establishment or continuation of Special Access Programs (SAPs) only when absolutely necessary to protect the nation's most sensitive and critical information or when required by statute. Establishment of SAPs shall be consistent with law, treaty, policy and regulation, and be based on a determination that the threat and/or vulnerability warrant enhanced protection. Reference (a) further requires DON to establish mechanisms to ensure adequate management, administration and oversight of DON SAPs.

b. Reference (c) requires that all intelligence activities shall be carried out in strict conformity with the U.S. Constitution, applicable laws, Executive Order 12333, and other relevant DoD Directives. It further requires all DoD intelligence component employees to report all intelligence activities that may violate a U.S. law, Executive Order, Presidential Directive, or applicable DoD policy to the Inspector General or General Counsel responsible for the DoD intelligence component involved. Reference (d) implements reference (c) within DON. Additional guidance on counterintelligence is provided at references (e) and (f).

c. References (g) through (n) describe additional activities which may come under the purview of this instruction, including support for counterterrorism training and operations, counterintelligence programs, and support to civilian law enforcement agencies.

5. Policy

a. Activities covered by this instruction shall be conducted in strict accordance with all governing laws, statutes, orders, directives and policies. Maintaining oversight of compartmented programs and sensitive activities is

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essential to achieving this objective. Therefore, all SAPs, intelligence, special and sensitive activities shall be provided oversight in accordance with this instruction.

b. In accordance with 10 U.S.C. § 5013, the Secretary of the Navy is responsible for, inter alia, the effective supervision and control of all matters related to compartmented programs and sensitive activities within DON. In accordance with 10 U.S.C. §§ 5013(f) and 5015(b), and by delegation from the Secretary, final authority for all activities within the purview of this instruction lies solely with the Under Secretary of the Navy, except where expressly redelegated by the Under Secretary of the Navy. In the absence of the Under Secretary, the responsibilities assigned to him herein shall be exercised by the Secretary of the Navy (SECNAV), or as redelegated by the SECNAV.

c. Oversight encompasses more than a review for compliance with U.S. law, policy, directive and regulation. Meaningful oversight includes a broad review of compartmented program and sensitive activity goals, objectives, and resources.

d. This instruction is not intended to alter or impose duplicate reporting and advance coordination for operational matters which already occurs for support to civilian law enforcement as set forth in reference (i) or for sensitive military activities, reconnaissance operations or counterdrug support pursuant to references (o) through (s).

e. Any intelligence matter having significant operational or acquisition consequences for DON shall, at the direction of the Under Secretary of the Navy, be reported to Congress in accordance with reference (t).

f. This instruction does not constitute authority for any DON component or person to initiate, conduct or support compartmented programs, intelligence, sensitive or special activities without requisite prior approval by an appropriate official.

6. Definitions

a. Civilian agency. An agency of one of the following jurisdictions:

(1) the United States (other than the Department of Defense, but including the U.S. Coast Guard);

(2) a State (or political subdivision thereof) of the United States;

(3) a Commonwealth, Territory or Possession (or political subdivision thereof) of the United States.

b. Civilian Law Enforcement Official. An officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of that agency.

c. Compartmented Program. A program established to protect and control access to particularly sensitive information, e.g., sensitive intelligence sources and methods; operational planning; and special access programs. Access to such programs is limited to individuals with a specific need for such information and who are therefore given specific security accesses and indoctrination for that purpose.

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d. Counterintelligence. Information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage conducted for or on behalf of foreign powers, organizations, persons, or terrorist activities, but not including personnel, physical, document or communications security programs.

e. Cover. Measures used to protect funding, personnel, plans or operations from identification with clandestine activities.

f. Intelligence Activities. The collection, production and dissemination of foreign intelligence and counterintelligence by DON intelligence components authorized by reference (c). An intelligence activity may be a sensitive activity.

g. Intelligence Components. Within the DON, refers to:

(1) the Office of the Director of Naval Intelligence (CNO(N2)) within the Office of the Chief of Naval Operations (OPNAV);

(2) the Office of Naval Intelligence;

(3) Director, Marine Corps Intelligence Staff (CI);

(4) Marine Corps Intelligence Activity (MCIA);

(5) the Naval Security Group Command;

(6) Marine Support Battalion;

(7) intelligence and counterintelligence elements of the U.S. Marine Corps;

(8) the counterintelligence elements of the Naval Criminal Investigative Service;

(9) Naval and Marine Corps Reserve Intelligence Programs; and

(10) other DON organizations, staffs and offices when engaged in intelligence activities.

h. Non-Intelligence Sensitive Activity. Activities in support of national security or foreign policy objectives of the United States which may involve: the potential for public embarrassment or controversy; physical risks to DON property or personnel; or some type of adverse military or diplomatic reaction to the proposed activity. These activities may include support to civilian law enforcement as specified in reference (i).

i. Questionable Activity. Any conduct that may constitute a violation of applicable law, treaty, regulation or policy.

j. Sensitive Activity. Any activity requiring special protection from disclosure which could embarrass, compromise or threaten the DON. Any activity which, if not properly executed or administered, could raise issues of unlawful conduct, government ethics, or unusual danger to DON personnel or property.

k. Special Access Program (SAP). Any program imposing need-to-know or access controls beyond those normally required for Confidential, Secret or Top Secret information. Such a program includes but is not limited to a special clearance, more stringent adjudication or investigation requirements; special

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designation of officials authorized to determine need-to-know; or special lists of persons determined to have a need-to-know. A special access program may be a sensitive activity.

1. Special Activities. As defined by Executive Order 12333, activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies or media, and do not include diplomatic activities or the collection and production of intelligence or related support activities.

7. Responsibilities. The responsibilities listed below are for purposes of this instruction only and shall not be construed as limits on existing authority or responsibility.

a. The Under Secretary of the Navy is assigned responsibility for oversight of all compartmented programs, sensitive activities, intelligence activities and intelligence-related activities within the DON. The UNSECNAV shall be assisted in discharging his oversight responsibility by the following oversight bodies:

(1) A Senior Review Board (SRB), which shall be chaired by the Under Secretary of the Navy and have final review and oversight authority within DON over all activities governed by this instruction and those which the Secretary, the Under Secretary or the SRB principals designate for review. It shall be constituted as described in enclosure (1).

(2) The Special Programs Review Group (SPRG), as constituted and described in enclosure (2), shall be responsible for the control and oversight of DON special access programs (except as may be exempted by the UNSECNAV). The SPRG shall make a periodic report of its oversight reviews and findings to the SRB.

(3) The Sensitive Activities Review Board (SARB), as constituted and described in enclosure (3), shall be responsible for review and oversight of all intelligence activities, non-intelligence sensitive activities and special activities conducted or supported by DON components (except as may be exempted by the UNSECNAV). The SARB shall make a periodic report of its oversight reviews and findings to the SRB.

b. The General Counsel of the Navy, in coordination with the Judge Advocate General of the Navy, shall be responsible for ensuring that compartmented programs and sensitive activities within DON are conducted in a legal manner, and referring reports of questionable activities conducted by or on behalf of DON components to the Naval Inspector General or Director, Naval Criminal Investigative Service, as appropriate for investigation. The General Counsel and Judge Advocate General shall discharge these responsibilities in part as principal members of the SRB and SPRG, and by designating their deputies as principal members of the SARB.

c. The Assistant Secretaries of the Navy (ASNs) shall be responsible for exercising control over and proper management of their functional areas of responsibility with respect to all activities covered by this instruction.

d. The Naval Inspector General shall be responsible for the inspection of DON intelligence components and for investigating or referring for investigation reports of questionable activities by any DON component. The Naval Inspector General shall chair the SARB.

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e. The Chief of Naval Operations and the Commandant of the Marine Corps shall be responsible for

(1) the execution, review and coordination of all compartmented programs and sensitive activities within their Services;

(2) ensuring proper and timely reporting of these matters to the cognizant oversight board; and

(3) the timely initiation of Congressional notification in accordance with reference (t).

f. The Director of Naval Intelligence shall be responsible for ensuring that the Naval Inspector General, General Counsel of the Navy and the Judge Advocate General of the Navy have access to information necessary to carry out their duties under this instruction.

g. The Naval Auditor General shall maintain a staff of appropriately cleared auditors to independently review compartmented programs and sensitive activities under the control of this instruction and in accordance with reference (u).

8. Action. All DON directives at variance with this instruction shall be revised appropriately within 120 days of the date of this instruction.

9. Report. The reporting requirement contained in this instruction is exempt from reports control by SECNAVINST 5214.2B.


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SENIOR REVIEW BOARD (SRB) JURISDICTION AND MEMBERSHIP

1. The SRB:

a. shall exercise review and oversight over all compartmented programs and sensitive activities of the DON, as defined in paragraph 6 of this instruction;

b. will receive reports from the Sensitive Activities Review Board (SARB) and Special Programs Review Group (SPRG) at least semi-annually, with more frequent reporting as deemed necessary by the Chair; and

c. will meet quarterly or as called by the Chair.

2. Membership

a. The SRB shall be chaired by the Under Secretary of the Navy (UNSECNAV).

b. Other members of the SRB are:

- Vice Chief of Naval Operations
- Assistant Commandant of the Marine Corps
- General Counsel of the Navy
- Assistant Secretary of the Navy (Research, Development and Acquisition)
- Assistant Secretary of the Navy (Financial Management and Comptroller)
- Naval Inspector General
- Judge Advocate General of the Navy

c. Associate/Advisory members include:

- Deputy Chief of Naval Operations (Resources, Warfare Requirements and Assessments) (CNO(N8))
- Deputy Chief of Naval Operations (Plans, Policy and Operations) (CNO(N3/5))
- Deputy Chief of Staff for Programs and Resources, USMC
- Deputy Chief of Staff for Plans, Policies and Operations, USMC
- Deputy Naval Inspector General for Marine Corps Matters/IGMC
- Director of Naval Intelligence (CNO(N2))
- Director of Intelligence, USMC
- Director, Special Programs Division (CNO(N89))

d. The Counsel for the Commandant and Staff Judge Advocate to the Commandant may attend when Marine Corps matters are under review.

e. The Chair may invite other DON officials to consider individual issues for which special expertise is required.

f. Attendance will be by principals only except by permission of the Chair.

3. Administrative Support. The Assistant for Special Programs to the UNSECNAV (ASP/OUSN) will serve as Executive Secretary of the SRB, supported by the staff of the Director, Special Programs Division (CNO(N89)), and Special Assistant to the Inspector General, U.S. Marine Corps.

4. Record of Proceedings. The Executive Secretary shall prepare and forward to UNSECNAV for approval a record of SRB proceedings, and maintain the original signed copy.

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SPECIAL PROGRAMS REVIEW GROUP (SPRG) JURISDICTION AND MEMBERSHIP

1. The SPRG shall:

a. have oversight authority over all DON Special Access Programs (SAPs) (except as may be exempted by the Under Secretary of the Navy (UNSECNAV));

b. conduct its oversight in accordance with the policies established at paragraph 5 of this instruction;

c. establish a schedule which will accomplish review of each DON SAP at least annually, in accordance with reference (a);

d. have cognizance over all matters related to SAP execution, including acquisition and programmatic decisions, security, operational requirements, concepts of operation, operational test and evaluations, logistic support and fleet implementation;

e. report findings and recommendations to the UNSECNAV; and

f. report to the Senior Review Board (SRB) at least semi-annually.

2. Membership

a. The SPRG shall be co-chaired by the Assistant Secretary of the Navy (Research, Development and Acquisition) and the Deputy Chief of Naval Operations (Resources, Warfare Requirements and Assessments) (CNO(N8)), or their designated representatives (normally, the Principal Deputy).

b. Other members of the SPRG are:

- General Counsel of the Navy
- Assistant Secretary of the Navy (Financial Management and Comptroller)
- Naval Inspector General
- Deputy Chief of Staff for Programs and Resources, USMC
- Deputy Chief of Naval Operations (Plans, Policy and Operations) (CNO(N3/N5))
- Judge Advocate General of the Navy
- Director of Naval Intelligence (CNO(N2))
- Cognizant Sponsor
- Cognizant Systems Commander
- Cognizant Program Executive Officer/Direct Reporting Program Manager
- Cognizant Deputy Assistant Secretary of the Navy
- Director, Special Programs Division (CNO(N89))

c. Associate/Advisory members include:

- Director of Space, Information Warfare, Command and Control (CNO(N6))
- Director of Navy Test and Evaluation and Technology Requirements (CNO(N091))
- Director, Programming Division (CNO(N80))
- Director, Assessment Division (CNO(N81))
- Director, Fiscal Management Division (CNO(N82))
- Director, Office of Program Appraisal (OPA)
- Chief of Naval Research (CNR)
- Assistant for Special Programs to the UNSECNAV (ASP/OUSN)

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d. The Deputy Chief of Staff for Programs and Resources, USMC, shall serve as co-chair, and appropriate counterpart Marine Corps officials will serve as members/associate members when Marine Corps programs are under review.

e. Other DON officials may be invited to attend SPRG meetings as subject matter experts/interested observers at the discretion of the Executive Secretary acting for the Co-Chairs.

f. Attendance will be by principals or their deputies, except by concurrence of the Co-Chairs.

3. Pre-SPRG.

a. The Director, Special Programs Division (CNO(N89)) and the cognizant Deputy Assistant Secretary of the Navy (DASN) will co-chair a group consisting of the Deputies (or designated representatives) of SPRG principals which will convene to review the Program Manager's planned SPRG presentation to ensure that the presentation properly and adequately addresses pertinent issues and/or matters of interest to the SPRG principals.

b. The Pre-SPRG program review may, with the concurrence of the SPRG Co-Chairs and the UNSECNAV, constitute the required annual review of each SAP. This option shall not be exercised in successive years.

c. The Pre-SPRG program review which is proposed to constitute the annual review will be documented in consonance with paragraph 5 below.

4. Administrative Support. CNO(N89) will serve as the Executive Secretary, and his staff shall provide requisite support to the SPRG.

5. Record of Proceedings. The Executive Secretary shall prepare a record of SPRG proceedings for signature by the Co-Chairs, which shall be forwarded for review by UNSECNAV. CNO(N89) shall maintain the original signed copy.

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SENSITIVE ACTIVITIES REVIEW BOARD (SARB) JURISDICTION AND MEMBERSHIP

1. The SARB shall:

a. be responsible for review and oversight of all intelligence activities, non-intelligence sensitive activities, special activities, and, in accordance with paragraph 6 of this instruction, other potentially sensitive activities of DON components (except as may be exempted by the Under Secretary of the Navy (UNSECNAV));

b. conduct other reviews and oversight as directed by the UNSECNAV;

c. conduct its oversight in accordance with the policies established at paragraph 5 of this instruction;

d. report findings and recommendations to the UNSECNAV; and

e. report to the Senior Review Board (SRB) at least semi-annually.

2. Membership

a. The SARB shall be chaired by the Naval Inspector General.

b. Other members of the SARB are:

- Deputy Naval Inspector General for Marine Corps Matters/IGMC;
- Deputy Judge Advocate General of the Navy
- Deputy General Counsel of the Navy

c. Associate/Advisory members include:

- Deputy Director of Naval Intelligence (CNO(N2B))
- Deputy Assistant Chief of Staff, Intelligence, USMC
- Assistant Deputy Chief of Staff for Plans, Policy and Operations USMC
- Assistant Deputy Chief of Naval Operations (Plans, Policy and Operations) (CNO(N3B/N5B))
- Assistant for Special Programs to the UNSECNAV (ASP/OUSN)

d. The Chair may appoint ad hoc members, as necessary, to consider individual issues for which special expertise is required.

e. Attendance will be by principals only, except by permission of the Chair.

3. Administrative Support. The Special Assistant for Intelligence to the Naval Inspector General will serve as Executive Secretary of the SARB, supported by the staff of the Director of Naval Intelligence (CNO(N2)), the Special Assistant to the Inspector General, U.S. Marine Corps, and the staff of the Director, Special Programs Division (CNO(N89)).

4. Record of Proceedings. The Executive Secretary shall prepare a record of SARB proceedings for signature by the Chair, which shall be forwarded for review by the UNSECNAV. The Executive Secretary shall maintain the original signed copy.