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January 7, 1980
NUMBER 5200.27

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Department of Defense Directive

USDP

SUBJECT: Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense

References: (a) DoD Directive 5200.27, subject as above, December 8, 1975 (hereby canceled)
(b) DoD Directive 5240.1, "Activities of DoD Intelligence Components that Affect U.S. Persons," November 30, 1979

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to establish for the Defense Investigative Program general policy, limitations, procedures, and operational guidance pertaining to the collecting, processing, storing, and disseminating of information concerning persons and organizations not affiliated with the Department of Defense.

B. APPLICABILITY AND SCOPE

1. Except as provided by subsection B.3., below, this Directive is applicable to the Office of the Secretary of Defense, Military Departments, Office of the Joint Chiefs of Staff, Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components").

2. The provisions of this Directive encompass the acquisition of information concerning the activities of:

a. Persons and organizations, not affiliated with the Department of Defense, within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions; and

b. Non-DoD-affiliated U.S. citizens anywhere in the world.

3. This Directive is not applicable to DoD intelligence components as defined by DoD Directive 5240.1 (reference (b)).

4. Authority to act for the Secretary of Defense in matters in this Directive which require specific approval are delineated in enclosure 1.

DISTRIBUTION STATEMENT 1

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Distribution Unlimited

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C. POLICY

1. Department of Defense policy prohibits collecting, reporting, processing, or storing information on individuals or organizations not affiliated with the Department of Defense, except in those limited circumstances where such information is essential to the accomplishment of the Department of Defense missions outlined below.

2. Information-gathering activities shall be subject to overall civilian control, a high level of general supervision and frequent inspections at the field level.

3. Where collection activities are authorized to meet an essential requirement for information, maximum reliance shall be placed upon domestic civilian investigative agencies, Federal, State and local.

4. In applying the criteria for the acquisition and retention of information established pursuant to this Directive, due consideration shall be given to the need to protect DoD functions and property in the different circumstances existing in geographic areas outside the United States. Relevant factors include:

- a. The level of disruptive activity against U.S. forces;
- b. The competence of host country investigative agencies;
- c. The degree to which U.S. military and host country agencies exchange investigative information;
- d. The absence of other U.S. investigative capabilities, and
- e. The unique and vulnerable position of U.S. forces abroad.

D. AUTHORIZED ACTIVITIES

DoD Components are authorized to gather information essential to the accomplishment of the following defense missions:

1. Protection of DoD Functions and Property. Information may be acquired about activities threatening defense military and civilian personnel and defense activities and installations, including vessels, aircraft, communications equipment, and supplies. Only the following types of activities justify acquisition of information under the authority of this subsection:

- a. Subversion of loyalty, discipline, or morale of DoD military or civilian personnel by actively encouraging violation of law, disobedience of lawful order or regulation, or disruption of military activities.
- b. Theft of arms, ammunition, or equipment, or destruction or sabotage of facilities, equipment, or records belonging to DoD units or installations.

January 7, 1980
5200.27

c. Acts jeopardizing the security of DoD elements or operations or compromising classified defense information by unauthorized disclosure or by espionage.

d. Unauthorized demonstrations on active or reserve DoD installations.

e. Direct threats to DoD military or civilian personnel in connection with their official duties or to other persons who have been authorized protection by DoD resources.

f. Activities endangering facilities which have classified defense contracts or which have been officially designated as key defense facilities.

g. Crimes for which DoD has responsibility for investigating or prosecuting.

2. Personnel Security. Investigations may be conducted in relation to the following categories of persons:

a. Members of the Armed Forces, including retired personnel, members of the Reserve Components, and applicants for commission or enlistment.

b. DoD civilian personnel and applicants for such status.

c. Persons having need for access to official information requiring protection in the interest of national defense under the Department of Defense Industrial Security Program or being considered for participation in other authorized Department of Defense programs.

3. Operations Related to Civil Disturbance. The Attorney General is the chief civilian officer in charge of coordinating all Federal Government activities relating to civil disturbances. Upon specific prior authorization of the Secretary of Defense or his designee, information may be acquired which is essential to meet operational requirements flowing from the mission assigned to the Department of Defense to assist civil authorities in dealing with civil disturbances. Such authorization will only be granted when there is a distinct threat of a civil disturbance exceeding the law enforcement capabilities of State and local authorities.

E. PROHIBITED ACTIVITIES

1. The acquisition of information on individuals or organizations not affiliated with the Department of Defense will be restricted to that which is essential to the accomplishment of assigned Department of Defense missions under this Directive.

2. No information shall be acquired about a person or organization solely because of lawful advocacy of measures in opposition to Government policy.

3. There shall be no physical or electronic surveillance of Federal, State, or local officials or of candidates for such offices.

4. There shall be no electronic surveillance of any individual or organization except as authorized by law.

5. There shall be no covert or otherwise deceptive surveillance or penetration of civilian organizations unless specifically authorized by the Secretary of Defense, or his designee.

6. No DoD personnel will be assigned to attend public or private meetings, demonstrations, or other similar activities for the purpose of acquiring information, the collection of which is authorized by this Directive without specific prior approval by the Secretary of Defense, or his designee. An exception to this policy may be made by the local commander concerned, or higher authority, when, in his judgment, the threat is direct and immediate and time precludes obtaining prior approval. In each such case a report will be made immediately to the Secretary of Defense, or his designee.

7. No computerized data banks shall be maintained relating to individuals or organizations not affiliated with the Department of Defense, unless authorized by the Secretary of Defense, or his designee.

F. OPERATIONAL GUIDANCE

1. Nothing in this Directive shall be construed to prohibit the prompt reporting to law enforcement agencies of any information indicating the existence of a threat to life or property, or the violation of law, nor to prohibit keeping a record of such a report.

2. Nothing in this Directive shall be construed to restrict the direct acquisition by overt means of the following information:

a. Listings of Federal, State, and local officials who have official responsibilities related to the control of civil disturbances. Such listings may be maintained currently.

b. Physical data on vital public or private installations, facilities, highways, and utilities, as appropriate, to carry out a mission assigned by this Directive.

3. Access to information obtained under the provisions of this Directive shall be restricted to governmental agencies which require such information in the execution of their duties.

4. Information within the purview of this Directive, regardless of when acquired, shall be destroyed within 90 days unless its retention is required by law or unless its retention is specifically authorized under criteria established by the Secretary of Defense, or his designee.

January 7, 1980
5200.27

5. This Directive does not abrogate any provision of the Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation, April 5, 1979, nor preclude the collection of information required by Federal statute or Executive Order.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing regulations to the Deputy Under Secretary of Defense (Policy Review) within 120 days.

[Signature]
G. Graham Clayton, Jr.
Deputy Secretary of Defense

Enclosure - 1
Delegation of Authority

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DELEGATION OF AUTHORITY

- A. The Secretary of the Army is designated to authorize those activities delineated in subsection D.3., basic Directive. This authority may not be further delegated to other than the Under Secretary of the Army.
- B. The Deputy Under Secretary of Defense (Policy Review) (DUSD(PR)) is designated to authorize those activities delineated in subsection E.5., basic Directive, within the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions. This authority may not be delegated. The investigating DoD Component, prior to requesting approval for authorizations under this provision, shall coordinate prospective activities with the Federal Bureau of Investigation.
- C. The DUSD(PR) and the Secretaries of the Military Departments are designated to authorize those activities (delineated in subsection E.5., basic Directive) abroad¹ when membership of the civilian organization is reasonably expected to include a significant number of non-DoD-affiliated U.S. citizens. This authority may not be further delegated to other than the Under Secretaries of the Military Departments. When the Military Department Secretary or Under Secretary exercises this delegation of authority, the DUSD(PR) shall be advised promptly.
- D. The Secretaries of the Military Departments are designated to authorize in their Departments those activities delineated in subsection E.6., basic Directive, within the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories and possessions. This authority may not be further delegated to other than the Under Secretaries of the Military Departments.
- E. The Secretaries of the Military Departments are designated to authorize in their Departments those activities (delineated in subsection E.6., basic Directive) abroad¹ when a significant number of non-DoD-affiliated U.S. citizens are expected to be present. This authority may be further delegated, in writing, as circumstances warrant, to an authorized designee. The DUSD(PR) will be notified immediately of such further delegations of authority. When the Secretary or Under Secretary of a Military Department or his designee exercises this delegated authority, the DUSD(PR) shall be advised promptly.
- F. The DUSD(PR) is designated to authorize those activities delineated in subsections E.7. and F.4., basic Directive. These authorities may not be further delegated.

¹"Abroad" means "outside the United States, its territories and possessions."