



Department of Defense INSTRUCTION

NUMBER 5500.16

October 21, 1996

USD(C)

SUBJECT: Relationship with the Surveys and Investigations (S&I) Staff, House Appropriations Committee

- References:
- (a) Section 72a of Title 2, United States Code
 - (b) DoD Instruction 5500.16, "Relationship with the Surveys and Investigations Staff, House Appropriations Committee, December 8, 1976 (hereby cancelled)
 - (c) DoD Directive 5118.3, "Comptroller of the Department of Defense (C,DoD)," June 24, 1991
 - (d) DoD Directive 0-5205.7, "Special Access Program (SAP) Policy," January 4, 1989
 - (e) DoD Directive 5400.4, "Provision of Information to Congress," January 30, 1978
 - (f) DoD 5200.1-R, "DoD Information Security Program Regulation," June 1986 authorized by DoD Directive 5200.1, June 7, 1982
 - (g) Office of Management and Budget Circular No. A-11, "Preparation and Submission of Budget Estimates," June 6, 1995
 - (h) Deputy Secretary of Defense memorandum, August 27, 1969, subject: "GAO Review of Weapons Systems Programs - Access to Records"

1. REISSUANCE AND PURPOSE

This Instruction:

1.1. Under reference (a), implements policy, assigns responsibilities, and prescribes procedures governing the relationship of the Department of Defense with the S&I Staff, House Appropriations Committee.

1.2. Reissues reference (b).

2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (IG,DoD), and the Defense Agencies (hereafter referred to collectively as “the DoD Components”).

3. POLICY

It is DoD policy to make such administrative arrangements as are necessary to facilitate the conduct of inquiries by the S&I Staff, House Appropriations Committee. The S&I Staff was established under reference (a) to conduct investigations of the organization and operation of any Executive Branch Agency deemed necessary to assist the House Appropriations Committee in actions coming under its jurisdiction. The S&I Staff reports directly to the Chairman of the House Appropriations Committee and is completely separate from committee staffs that deal individually with Agency budget requests.

4. RESPONSIBILITIES

4.1. The Under Secretary of Defense (Comptroller), as the principal staff advisor to the Secretary of Defense for budgeting, auditing, and fiscal functions under DoD Directive 5118.3 (reference (c)), shall establish administrative procedures and guidance covering the relationship of the DoD Components with the S&I Staff, serve as the principal liaison of the Department of Defense with the S&I Staff, and make such arrangements as are necessary to facilitate the conduct of inquiries by the S&I Staff.

4.2. The Director for Plans and Systems within the Office of the Deputy Comptroller (Program/Budget) is designated as the individual who will coordinate with all other DoD Components those matters related to S&I Staff inquiries and direct S&I Staff members who are conducting inquiries to the appropriate organizations and individuals within the Department of Defense.

4.3. The OSD Principal Staff Assistants and the Chairman of the Joint Chiefs of

Staff shall ensure Defense-wide coordination of inquiries involving their respective functional areas. When notification of an impending inquiry has been received from the Director for Plans and Systems, each Principal Staff Assistant to the Secretary of Defense or Chairman of the Joint Chiefs of Staff office affected by the inquiry shall designate and advise the Director for Plans and Systems of the office within that organization and the individual who will serve as the OSD or Chairman of the Joint Chiefs of Staff Coordinator for that particular inquiry.

4.4. The Secretaries of the Military Departments and the Directors of Defense Agencies under OSD Principal Staff Assistants, as well as those that report directly to the Secretary or Deputy Secretary of Defense, shall make all arrangements necessary for S&I Staff teams to conduct inquiries within each Department or Agency. These arrangements shall include the following:

4.4.1. The designation of an office to receive all notifications of impending inquiries;

4.4.2. Assignment of responsibility to a specific organization and individual within the Military Department or Defense Agency for dealing with the S&I Staff and with the OSD Staff Coordinator on each inquiry as it is announced;

4.4.3. Advising the Director for Plans and Systems and the OSD Staff Coordinator, as appropriate, of individuals who are to be contacted by S&I Staff personnel.

5. PROCEDURES

5.1. Inquiries are initiated by majority vote of a subcommittee of the House Appropriations Committee, with participation by both the subcommittee Chairman and the Ranking Minority Member. Upon approval of the Chairman and Ranking Minority Member of the House Appropriations Committee, the request for an inquiry is directed to the S&I Staff for action. The Chief, Surveys and Investigations Staff, House Appropriations Committee, shall advise the Secretary of Defense by letter of the impending inquiry. Information copies of such letters shall be provided to: the Assistant Secretary of Defense for Public Affairs; the Assistant Secretary of Defense for Legislative Affairs (ASD(LA)); the General Counsel of the Department of Defense; the IG,DoD; the Chairman of the Joint Chiefs of Staff; the Military Departments; and any interested Defense Agency. Following such notification, the Director for Plans and Systems will determine the office of primary responsibility and request that an

individual from that office be designated as the OSD Staff Coordinator. The Director for Plans and Systems shall then forward the name of the individual designated as OSD Staff Coordinator to the S&I Staff. Henceforth, the OSD Staff Coordinator shall become the principal coordinator between the S&I team and the Department of Defense for the conduct of that particular inquiry.

5.2. If the subject of the inquiry is in a functional area under the jurisdiction of the Chairman of the Joint Chiefs of Staff, the Chairman shall designate the individual who will serve as Staff Coordinator for that particular inquiry. In those instances, the Chairman of the Joint Chiefs of Staff's Staff Coordinator will perform the same duties and assume the same responsibilities that are otherwise assigned in this Instruction to the OSD Staff Coordinator.

5.3. The Director for Plans and Systems shall also inform the designated representative or central coordinating office within a Military Department whenever an inquiry is expected to involve its operations. Each Defense Agency shall also be advised of each inquiry in which it has an interest. A Military Department or Defense Agency individual shall then be designated as the principal coordinator within that organization for matters about the inquiry. Such individuals shall normally be from the same functional area as the OSD Staff Coordinator.

5.4. As appointments are made, the Director for Plans and Systems will notify the Chief, Surveys and Investigations Staff, of the names of Department of Defense individuals who are to be contacted to get the inquiry underway.

5.5. The Chief, S&I Staff, at the earliest practicable time, shall furnish the Director for Plans and Systems a list of the names of S&I Staff investigators who will be participating in an inquiry. The Director for Plans and Systems shall then obtain the active DoD security clearance of each investigator from the ASD(LA) or from Washington Headquarters Services and provide a listing of investigators and their active DoD security clearance to the OSD Staff Coordinator, the affected Military Department central coordinating offices, and any Defense Agency that may be involved in the inquiry.

5.5.1. While the inquiry is underway, the OSD Staff Coordinator shall ensure that DoD personnel who will be contacted by S&I Staff members have been notified, in advance, of their active DoD security clearance.

5.5.2. In those cases where the S&I Staff anticipates a need for its investigators to view special access material in conjunction with an inquiry, the

Department of Defense should be notified as early as possible, in accordance with established procedure and DoD Directive 0-5205.7 (reference (d)). A request for access to the DoD Special Access Program (SAP) information on behalf of the S&I Staff shall be submitted with the approval of the Chairman or Ranking Member of the House Appropriations Committee, Subcommittee on National Security which has oversight for these programs. In cases of administrative urgency, the staff director's or designated senior minority staff member's signature shall be accepted. This request shall be made to the Director, Special Programs within the Office of the Under Secretary of Defense (Acquisition & Technology), and shall include justification for the requested access, the duration of the requested access, and necessary security data on the investigators for which the access is requested. The Director, Special Programs, shall evaluate the request and notify the appropriate SAP Central Office within OSD, the Chairman of the Joint Chiefs of Staff, or the Military Departments to process the request.

5.6. The Chief, S&I Staff, shall ensure that the Director for Plans and Systems has been informed of an investigator's assignment to a particular inquiry as well as his travel itinerary before that investigator commences with visits to DoD facilities or requests information. The OSD Staff Coordinator shall take the lead in making arrangements and shall arrange for travel and appointment schedules with Military Department coordinators or with other DoD offices. When the S&I Staff team requests information or data from the OSD staff or the Chairman of the Joint Chiefs of Staff, the OSD Staff Coordinator shall secure such information or data. This will enable the OSD Staff Coordinator to be knowledgeable of the material being requested and at the same time prevent unnecessary administrative delays in obtaining the information or data. The OSD Staff Coordinator shall request that the S&I Staff team advise on any unresolved problems that may arise in the conduct of the inquiry. All possible steps will be taken to ensure that S&I Staff members receive full cooperation of DoD organizations in conducting the inquiry.

5.7. It is the practice of S&I Staff teams to visit DoD installations unaccompanied. Accordingly, the OSD Staff, Chairman of the Joint Chiefs of Staff, Military Department, or Defense Agency coordinators should not arrange for DoD officials to accompany S&I teams, except in unusual circumstances, or when the S&I team chief requests that DoD officials accompany them.

5.8. In conducting inquiries, S&I Staff teams do not routinely provide a draft copy of their report to the Agency for comment. Moreover, S&I Staff team chiefs or members are not required to reveal the nature of their criticism at exit interviews nor to indicate what will be included in their final report. Reports on inquiries conducted by

the S&I Staff are made to the Chairman of the Appropriations Committee, and such copies may not be released except by authority of the Chairman or a majority of the committee. In some cases, reports are withheld indefinitely. While aware of these limitations, the Department of Defense will routinely request copies of final reports that address its operations. To avoid untimely or fruitless requests for reports, the S&I Staff is encouraged to advise the Department of completion of its reports or of any case where release of the report is unlikely.

5.9. Each Military Department and Defense Agency shall designate an office as the initial point of contact and central coordinating office on all matters concerning the activities of the S&I Staff. Upon being advised by the Director for Plans and Systems that notification of an impending inquiry has been received, the central coordinating office shall:

5.9.1. Notify the appropriate staff offices of the pending inquiry.

5.9.2. Initiate the action to designate an individual to serve as the principal coordinator with the S&I Staff for that particular inquiry. Since it is usually desirable for the coordinator to be in the same functional area as the OSD Staff Coordinator, the central coordinating office is encouraged to ascertain from the Director for Plans and Systems who will be the OSD Staff Coordinator before finalizing the appointment for the Military Department or the Defense Agency.

5.10. The provision of information and data to S&I Staff members shall be subject to the prevailing rules and customs for providing information direct to the House Appropriations Committee (DoD Directive 5400.4, reference (e)). It is DoD policy to extend maximum cooperation and provide all needed information to S&I Staff members in their conduct of inquiries, subject to the following conditions:

5.10.1. Classified information that is pertinent to the subject of the inquiry shall be properly safeguarded and provided only in accordance with the policies and regulations established under DoD 5200.1-R (reference (f)).

5.10.2. Information that is in draft form; i.e., pre-decisional information that has not been reviewed, coordinated or approved by the Secretary of Defense or his representative, shall not be released. Information in this category will generally consist of draft policies, studies, or analyses that have not been fully coordinated within the Department of Defense and, as such, do not reflect a position to which the Secretary of Defense or the Department of Defense can be held accountable.

5.10.3. Budget estimates and supporting materials for any given fiscal year, with the exception of internal DoD planning and budgeting documents like Program Budget Decisions (PBD) and Program Decision Memoranda (PDM) shall be made available upon transmittal of the President's Budget for that year to the Congress. Thereafter, any other material provided to the Appropriations Committee may be furnished. OMB Circular No. A-11 (reference (g)) establishes the policies on any premature disclosure of Presidential recommendations.

5.10.4. Instructions issued by the Deputy Secretary of Defense Memorandum (reference (h)) on the release of out-year financial planning data shall be observed.

5.10.5. Requests for information, in any form, that is under the joint or exclusive cognizance of another Executive Branch Agency; i.e., intelligence information under the cognizance of the Director of Central Intelligence, shall be referred to that Department or Agency for review and approval of release.

5.10.6. The conditions cited in paragraphs 5.10.1. through 5., above, that may prevent the provision of data to S&I Staff members should arise infrequently. When such conditions do arise, it should normally be possible to satisfy requests for such data by some alternate means that are acceptable to both the requestor and the Department of Defense. Defense personnel shall, therefore, make every possible effort to discover such alternate means. However, in those cases where requests for data cannot be satisfied, there shall be no disclosure of material, except in accordance with the procedures in paragraph 4.2.2 of DoD Directive 5400.4 (reference (e)).

6. EFFECTIVE DATE

This Instruction is effective immediately.



Alice C. Maroni
Principal Deputy Under Secretary
of Defense (Comptroller)