



REPLY TO
ATTENTION OF

DAMI-CDC (25-30q)

DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF FOR INTELLIGENCE
WASHINGTON DC 20310-1001



05 NOV 2001

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Collecting Information on U.S. Persons

1 The 11 September 2001 terrorist attack on America presented the United States and the U.S. Army with unprecedented challenges. Both our nation and our Army are responding vigorously to these challenges and will ultimately be victorious over international terrorism. Achieving this victory will not be easy, however. Our adversary is not a clearly defined nation state with fixed borders or a standing army. It is, instead, a shadowy underworld operating globally with supporters and allies in many countries, including, unfortunately, our own. Rooting out and eliminating this threat to our freedom and way of life will call upon every resource at our disposal. I am proud to say that Army Military Intelligence (MI) will play a pivotal role in helping to defeat this threat.

2 Many of the perpetrators of these attacks lived for some time in the United States. There is evidence that some of their accomplices and supporters may have been U.S. persons, as that term is defined in Executive Order (EO) 12333. This has caused concern in the field regarding MI's collection authority. With that in mind, I offer the following guidance:

a. Contrary to popular belief, there is no absolute ban on intelligence components collecting U.S. person information. That collection, rather, is regulated by EO 12333 and implementing policy in DoD 5240.1-R and AR 381-10.

b. Intelligence components may collect U.S. person information when the component has the mission (or "function") to do so, and the information falls within one of the categories listed in DoD 5240.1-R and AR 381-10. The two most important categories for present purposes are "foreign intelligence" and "counterintelligence." Both categories allow collection about U.S. persons reasonably believed to be engaged, or about to engage, in international terrorist activities. Within the United States, those activities must have a significant connection with a foreign power, organization, or person (e.g., a foreign-based terrorist group).

3. EO 12333 provides that "timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence possible." That said, my staff has received reports from the field of well-intentioned MI personnel declining to receive reports from local law enforcement

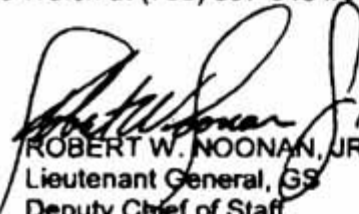
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authorities, solely because the reports contain U.S. person information. MI may receive information from anyone, anytime. If the information is U.S. person information, MI may retain that information if it meets the two-part test discussed in paragraph 2b, above. If the information received pertains solely to the functions of other DoD components, or agencies outside DoD, MI may transmit or deliver it to the appropriate recipients, per Procedure 4, AR 381-10. Remember, merely receiving information does not constitute "collection" under AR 381-10; collection entails receiving "for use." Army intelligence may always receive information, if only to determine its intelligence value and whether it can be collected, retained, or disseminated in accordance with governing policy.

4. Military Intelligence must collect all available information regarding international terrorists who threaten the United States, and its interests, including those responsible for planning, authorizing, committing, or aiding the terrorist attacks of 11 September 2001. We will do so – as EO 12333 directs – "in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law, and respectful of the principles upon which the United States was founded."

5. Key ODCSINT numbers for intelligence oversight questions are (703) 601-1958/1551, or through the 24-hour Intelligence Watch at (703) 697-5484/5485.


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