



Department of Defense **DIRECTIVE**

NUMBER 5148.11

April 24, 2013

DA&M

SUBJECT: Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO))

References: See Enclosure

1. PURPOSE. This directive:

a. Reissues DoD Directive (DoDD) 5148.11 (Reference (a)) to update the responsibilities and functions, relationships, and authorities of the ATSD(IO) under the authority vested in the Secretary of Defense by Title 10 and Title 50, United States Code (References (b) and (c)).

b. Authorizes the ATSD(IO), as a Principal Staff Assistant (PSA) reporting directly to the Secretary of Defense, to establish DoD policy in DoD issuances within the responsibilities, functions, and authorities assigned in this directive, and in accordance with DoD Instruction (DoDI) 5025.01 (Reference (d)).

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, the Office of the Inspector General of the Department of Defense (IG 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. RESPONSIBILITIES AND FUNCTIONS. The ATSD(IO) is the PSA and advisor to the Secretary and Deputy Secretary of Defense for Intelligence Oversight – the independent oversight of all intelligence, counterintelligence, and intelligence-related activities (referred to collectively in this directive as “intelligence activities”) – in the DoD. In this capacity, the ATSD(IO) inspects all intelligence or intelligence-related activities conducted by any of the DoD Components to ensure that these activities comply with federal law, Executive orders (E.O.s), Presidential Directives, Intelligence Community (IC) Directives, and DoD issuances. In the exercise of assigned responsibilities, the ATSD(IO):

a. Develops Intelligence Oversight policy and, in coordination with the General Counsel of the Department of Defense (GC DoD), issues Intelligence Oversight guidance to the DoD

Components, including regulatory guidance implementing Intelligence Oversight aspects of E.O. 12333 (Reference (e)) and E.O. 13462 (Reference (f)).

b. Reviews, in consultation with the GC DoD, as appropriate, any allegation questioning the legality or propriety of DoD intelligence activities, or where a reasonable person would believe that the intelligence activity may be unlawful or contrary to E.O. or Presidential directive, and recommends and/or monitors a DoD Component-led investigation or directly investigates such allegations, when appropriate. Any investigation conducted by ATSD(IO) personnel that initially involves an allegation of potential criminal misconduct, as well as any ongoing investigation being conducted by ATSD(IO) personnel which subsequently uncovers evidence of potential criminal misconduct, will be conducted jointly with one or more Defense Criminal Investigative Organizations.

c. Receives, reviews, and assesses both urgent and quarterly Intelligence Oversight reports from the Defense Intelligence Components or from any DoD Component involved in intelligence-related activities, and determines what action is required, including the fulfillment of reporting and the treatment of significant or highly sensitive (S/HS) matters as described in paragraph 3d of this section.

d. Serves as the DoD lead for all matters associated with the Intelligence Oversight Board (IOB) of the President's Intelligence Advisory Board (PIAB), established under Reference (f), including DoD reporting to the IOB and for addressing IOB inquiries received by the DoD. Also, the ATSD(IO) reports the following to the Secretary and Deputy Secretary of Defense, the IOB, and the Director of National Intelligence, in coordination with the GC DoD:

(1) On an immediate basis, any Defense intelligence activities of a questionable, significant, or highly sensitive nature as they pertain to Intelligence Oversight, pursuant to Reference (e). Reporting on any questionable intelligence activity (QIA) and S/HS matter will not be delayed or postponed pending an investigation, command inquiry, congressional reporting, or legal proceeding.

(2) On a quarterly basis, any Intelligence Oversight issues reported previously that have not been resolved or remain active, particularly those reported within the quarter. This quarterly report includes new issues described in paragraph 3b of this section that arose during the period but were not in the category described in paragraph 3d(1). It includes a description of any inspection finding or Intelligence Oversight program developments that are significant. The report can address any other appropriate Intelligence Oversight matter.

e. Conducts staff assistance visits and independent inspections of the DoD Components that engage in intelligence activities to verify that personnel are familiar and in compliance with References (e) and (f) and their DoD implementing documents. Ensures Defense Intelligence Component efforts are focused on intelligence and security interests and issues that have a foreign connection.

f. Assesses and evaluates the performance of DoD intelligence activities as part of inspections and staff assistance visits, as well as at the request of DoD senior leadership or when

necessary. Provides reports on areas of special interest to the requesting official, the DoD Component head inspected or visited, as applicable, as well as to the Secretary and Deputy Secretary of Defense and, as appropriate, to the IOB and the Director of National Intelligence for information. Conducts inspections to assess the quality and thoroughness of Intelligence Oversight inspection procedures.

g. Monitors investigations and inspections conducted by the DoD Components related to intelligence activities; evaluates the findings; and, if appropriate, recommends corrective action to the Secretary and Deputy Secretary of Defense, the IOB, and the Director of National Intelligence.

h. Serves as an advisory member of the Defense Counterintelligence and Human Intelligence Enterprise Board of Directors and attends the Senior Military Intelligence Officers Conference as an observer.

i. Reviews and validates an annual financial audit of all funds generated by DoD intelligence commercial activities, and reports the results to the Under Secretary of Defense for Intelligence (USD(I)), pursuant to DoDI S-5240.12 (Reference (g)).

j. Coordinates, as appropriate, with the USD(I) on matters relating to USD(I) areas of responsibility, in accordance with DoDD S-5200.37 (Reference (h)), DoDD O-5240.02 (Reference (i)), and DoD 5240.1-R (Reference (j)). Reviews DoD clandestine intelligence activities and intelligence-related sensitive activities to ensure compliance with federal law and statutes as applicable, E.O.s, Presidential Directives, IC Directives, and DoD issuances as they pertain to Intelligence Oversight.

k. Maintains liaison with the IC elements and federal, State, local, and tribal law enforcement organizations, as required, to ensure DoD intelligence activities and DoD intelligence support to law enforcement agencies:

(1) Protect the civil liberties of DoD personnel and the public.

(2) Are conducted in accordance with all applicable laws, DoD Intelligence Oversight policies, and regulations.

l. Periodically reviews DoD sensitive support provided to the DoD Components and other U.S. Government departments and agencies, pursuant to DoDD S-5210.36 (Reference (k)), to ensure compliance with DoD Intelligence Oversight policy.

m. Coordinates with the IG DoD on matters relating to IG areas of responsibility, pursuant to DoDD 5106.01 (Reference (l)).

n. Develops and implements outreach programs in Intelligence Oversight with international organizations and other organizations, as appropriate, to include international conferences and symposiums, in coordination with the Under Secretary of Defense for Policy.

o. Monitors, from an Intelligence Oversight perspective, the provision of Departmental intelligence support and involvement in DoD programs regarding information operations, special operations, critical infrastructure protection, DoD information assurance, homeland defense, insider threat, enduring constitutional government, continuity of government operations, and continuity of operations.

p. Provides Intelligence Oversight training and supplemental training materials to Combatant Command IG personnel as part of the joint IG course sponsored by the Office of the IG DoD and, upon request, to other Defense Intelligence Components.

q. Informs the DoD Civil Liberties Officer or the DoD Component head concerned, as appropriate, when in the course of carrying out the responsibilities in this directive, civil liberties issues are identified in accordance with DoDI 1000.29 (Reference (m)).

r. Performs such other duties as the Secretary or Deputy Secretary of Defense may prescribe.

4. RELATIONSHIPS

a. In performing assigned responsibilities and functions, the ATSD(IO):

(1) Reports directly to the Secretary and Deputy Secretary of Defense.

(2) Coordinates and exchanges information with other OSD officials, the DoD Component heads, and other federal officials having collateral or related responsibilities and functions.

(3) Uses existing systems, facilities, and services of the DoD and other federal agencies, when possible, to avoid duplication and to achieve maximum efficiency and economy.

b. The USD(I) promptly informs the ATSD(IO) of potential areas requiring ATSD(IO) attention, pursuant to the responsibilities and functions prescribed in this directive.

c. Other OSD PSAs and the DoD Component heads will coordinate with the ATSD(IO) on all matters under their purview related to the responsibilities and functions assigned in this directive.

d. The Director, Washington Headquarters Services, under the authority, direction, and control of the Director of Administration and Management, will provide support services to the Office of the ATSD(IO), including human resources management, contracting support, and other general support services, as requested.

e. The IG DoD will provide, within existing IG DoD resources, audit support to the ATSD(IO) for the performance of the intelligence commercial activities audit when requested to do so by the ATSD(IO).

5. AUTHORITIES. The ATSD(IO) is hereby delegated the authority to:

a. Establish, in DoDIs and directive-type memorandums (DTMs), DoD policy within the responsibilities, functions, and authorities assigned by this directive, including the authority to identify collateral responsibilities of OSD PSAs and the DoD Component heads. Such issuances must be fully coordinated in accordance with Reference (d). This authority may not be redelegated. In areas of assigned responsibilities and functions, the ATSD(IO) has authority to approve and sign other DoDIs, DoD manuals, and DTMs, in accordance with Reference (d), that implement policy approved by the Secretary of Defense. Instructions to the Military Departments must be issued through the Secretaries of the Military Departments or their designees. Instructions to the Combatant Commands normally must be communicated through the Chairman of the Joint Chiefs of Staff.

b. Obtain reports and information, in accordance with DoDI 8910.01 (Reference (n)) and DoD 8910.1-M (Reference (o)) as necessary, in order to carry out assigned responsibilities and functions. DoD Component reporting and quarterly reports to the ATSD(IO) related to Intelligence Oversight are exempt from the procedures for reviewing and licensing DoD internal information requirements, pursuant to Reference (n) and in accordance with Reference (o).

c. Communicate directly with the DoD Component heads, as necessary, to carry out assigned responsibilities and functions, including the transmission of requests for advice and assistance. Communications to the Military Departments must be transmitted through the Secretaries of the Military Departments, their designees, or as otherwise provided in law or directed by the Secretary of Defense in other DoD issuances. Communications to the Commanders of the Combatant Commands, except as provided for in memorandums of agreement concerning personnel support, must be in accordance with paragraph 4b(3) above the signature line of DoDD 5100.01 (Reference (p)).

d. Request temporary assistance from the DoD Components, in accordance with established procedures and, as required, for the conduct of inspections, staff assistance visits, audits, or investigations, to include personnel, facilities, and other services.

e. Communicate directly with the IOB of the PIAB, the Office of the Director of National Intelligence, other Executive Branch officials, representatives of the Legislative Branch, members of the public, representatives of foreign governments, and international organizations, as appropriate, in carrying out assigned responsibilities and functions, including implementation of DTM 08-052 (Reference (q)). Communications with representatives of the Legislative Branch must be conducted through the Assistant Secretary of Defense for Legislative Affairs or the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, as appropriate, and be consistent with the DoD Legislative Program.

f. Have complete and unrestricted access to all available intelligence and intelligence-related information, regardless of classification or compartmentalization, including intelligence special access programs, from all DoD Components and personnel, as required, in carrying out assigned

responsibilities and functions. Access to classified information must be in accordance with the requirements of applicable security policy. This includes specifically the authority to:

(1) Require an IG or other responsible investigative official of a DoD Component to report allegations of improprieties or illegalities of intelligence activities by, or within, a DoD Component, or allegations regarding an intelligence activity that a reasonable person would believe may be unlawful or contrary to E.O. or Presidential directive.

(2) Obtain information on the status, proceedings, and findings. Nothing in this paragraph should be construed as impinging upon the authorities of the IG DoD, as provided by the Inspector General Act of 1978, as amended, Title 5, U.S.C. Appendix (Reference (r)).

g. Communicate directly with the head of the element inspected or investigated, conduct interviews, take sworn statements, and examine records incident to an inspection or investigation of any DoD Component, as required, in carrying out assigned functions.

h. Monitor and conduct investigations of violations of law, orders, regulations, directives, or policy, and other QIAs, as required, as they relate to Intelligence Oversight. Any investigation conducted by ATSD(IO) personnel that initially involves an allegation of potential criminal misconduct, as well as any ongoing investigation being conducted by ATSD(IO) personnel which subsequently uncovers evidence of potential criminal misconduct, will be conducted jointly with one or more Defense Criminal Investigative Organizations.

6. **RELEASABILITY. Unlimited.** This directive is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. **EFFECTIVE DATE.** This directive:

a. Is effective April 24, 2013.

b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with Reference (d). If not, it will expire April 24, 2023 and be removed from the DoD Issuances Website.



Ashton B. Carter
Deputy Secretary of Defense

Enclosure
References
Glossary

ENCLOSURE

REFERENCES

- (a) DoD Directive 5148.11, "Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)), September 20, 2010 (hereby cancelled)
- (b) Title 10, United States Code
- (c) Title 50, United States Code
- (d) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012
- (e) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, as amended
- (f) Executive Order 13462, "President's Intelligence Advisory Board and Intelligence Oversight Board," February 29, 2008, as amended
- (g) DoD Instruction S-5240.12, "Intelligence Commercial Activities (ICAs) (U)," April 21, 2010
- (h) DoD Directive S-5200.37, "Management and Execution of Defense Human Intelligence (HUMINT) (U)," February 9, 2009¹, as amended
- (i) DoD Directive O-5240.02, "Counterintelligence," December 20, 2007², as amended
- (j) DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 7, 1982
- (k) DoD Directive S-5210.36, "Provision of DoD Sensitive Support to DoD Components and Other Departments and Agencies of the U.S. Government (U)," November 6, 2008¹
- (l) DoD Directive 5106.01, "Inspector General of the Department of Defense," April 20, 2012
- (m) DoD Instruction 1000.29, "DoD Civil Liberties Program," May 17, 2012
- (n) DoD Instruction 8910.01, "Information Collection and Reporting," March 6, 2007, as amended
- (o) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
- (p) DoD Directive 5100.01, "Functions of the Department of Defense and Its Major Components," December 21, 2010
- (q) Directive-type Memorandum 08-052, "DoD Guidance for Reporting Questionable Intelligence Activities and Significant or Highly Sensitive Matters," June 17, 2009, as amended
- (r) Title 5, United States Code, Appendix³

¹ This classified document is available on the SECRET Internet Protocol Router Network (SIPRNET) DoD Issuances Website at <http://www.dtic.smil.mil/whs/directives>.

² This For Official Use Only document is available on the SIPRNET DoD Issuances Website at <http://www.dtic.smil.mil/whs/directives>.

³ Also known as "The Inspector General Act of 1978, as amended"

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

ATSD(IO)	Assistant to the Secretary of Defense for Intelligence Oversight
DoDD	DoD Directive
DoDI	DoD Instruction
DTM	directive-type memorandum
E.O.	Executive order
GC DoD	General Counsel of the Department of Defense
IC	Intelligence Community
IG	Inspector General
IG DoD	Inspector General of the Department of Defense
IOB	Intelligence Oversight Board
PIAB	President’s Intelligence Advisory Board
PSA	Principal Staff Assistant
QIA	questionable intelligence activity
SIPRNET	SECRET Internet Protocol Router Network
S/HS	significant or highly sensitive
USD(I)	Under Secretary of Defense for Intelligence

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this directive.

Defense Intelligence Components. The term “Defense Intelligence Components” refers to all DoD organizations that perform national intelligence, Defense Intelligence, and intelligence-related functions, including: the Defense Intelligence Agency; the National Geospatial-Intelligence Agency; the National Reconnaissance Office; the National Security Agency/Central Security Service; and the intelligence elements of the Active and Reserve components of the Military Departments, including the United States Coast Guard when operating as a service in the Department of the Navy.

foreign connection. A U.S. person has a foreign connection when a reasonable belief exists that the U.S. person is or has been in contact with, or has attempted to contact, a foreign person or representative of a foreign power for purposes harmful to U.S. national security interests; or

when a reasonable belief exists that the U.S. person is acting or encouraging others to act in furtherance of the goals or objectives of a foreign person or power for purposes harmful to U.S. national security interests.

inspection. An evaluation that measures performance against a standard and that should identify the cause of any deviation. All inspections start with compliance against a standard. The ATSD(IO) and the DoD Component heads may tailor inspections to their needs.

IC. IC elements include: the Office of the Director of National Intelligence; the Central Intelligence Agency; the National Security Agency/Central Security Service; the Defense Intelligence Agency; the National Geospatial-Intelligence Agency; the National Reconnaissance Office; other offices within the DoD for the collection of specialized national intelligence through reconnaissance programs; the intelligence and counterintelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Drug Enforcement Administration, and of the Department of Energy; the Bureau of Intelligence and Research of the Department of State; the Office of Intelligence and Analysis of the Department of the Treasury; the elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the intelligence and counterintelligence elements of the Coast Guard; and such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the IC.

Intelligence Oversight. The process of independently ensuring all DoD intelligence, counterintelligence, and intelligence-related activities are conducted in accordance with applicable U.S. law, E.O.s, Presidential directives, and DoD issuances designed to balance the requirement for acquisition of essential information by the IC, and the protection of Constitutional and statutory rights of U.S. persons. Intelligence Oversight also includes the identification, investigation, and reporting of questionable intelligence activities and S/HS matters involving intelligence activities.

propriety. Conformity of intelligence activities with published E.O.s; Presidential, DoD, and DoD Intelligence Component issuances; and sound business practices.

questionable intelligence activity. An intelligence activity, as defined in Reference (e), that may be unlawful or contrary to E.O., Presidential directive, or applicable DoD policy governing that activity.

S/HS matter. A development or circumstance involving an intelligence activity or intelligence personnel that may be unlawful or contrary to E.O. or Presidential directive, or that could impugn the reputation or integrity of the Defense Intelligence Components or otherwise call into question the propriety of an intelligence activity. Such matters might be manifested in or by an activity that involves congressional inquiries or investigations; may result in adverse media coverage; may impact on foreign relations or foreign partners; or is related to the unauthorized disclosure of classified or protected information, such as information identifying a sensitive source and method. Reporting under this paragraph does not include reporting of routine security violations.

staff assistance visit. Visits conducted by the ATSD(IO) and staff to the DoD Components to enhance their awareness and understanding of Intelligence Oversight concepts and procedures, advise on how to create and implement a meaningful Intelligence Oversight program tailored to the mission of the DoD Component visited, and provide specific advice and guidance on Intelligence Oversight questions and concerns, as needed.