



DEPARTMENT OF THE NAVY

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NCIS
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SECNAV INSTRUCTION 5430.107

From: Secretary of the Navy

Subj: MISSION AND FUNCTIONS OF THE NAVAL CRIMINAL
INVESTIGATIVE SERVICE

Ref: (a) Title 10 USC § 5013
(b) Title 10 USC § 7480
(c) Title 10 USC § 375
(d) SECNAVINST 5430.7N
(e) SECNAVINST 5820.7B
(f) through (dd), see Enclosure (1)

Encl: (1) References, continued.

1. Purpose. To set forth the authority, responsibilities, mission and functions of the Naval Criminal Investigative Service (NCIS) and its relationship with other Department of the Navy (DON) organizations and activities.

2. Cancellation. SECNAVINST 5520.3B

3. Definitions. As used in this instruction, the following definitions pertain:

a. Combating Terrorism: All actions including antiterrorism (defensive measures to reduce vulnerability to terrorist acts), counterterrorism (offensive measures taken to prevent, deter and respond to terrorism), terrorism consequence management (preparation for and response to the consequences of a terrorist incident or event), and intelligence support (collection and dissemination of terrorism-related information) taken to oppose terrorism throughout the entire threat spectrum, to include terrorist use of chemical, biological, radiological, nuclear materials, or high-yield explosive devices (CBRNE).

b. Counterintelligence (CI): Information gathered or activities conducted to protect against espionage, other

intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or international terrorist activities, but not including personnel, physical, document, or communications security programs.

c. Criminal Operations: Efforts to acquire intelligence about or interdict criminal activities or enterprises that significantly affect the naval establishment, through the use of specialized investigative techniques or equipment, including: the employment of undercover agents; the formal registration or tasking of sources; technical surveillance equipment and investigative tools; oral, wire, and electronic intercepts; pen registers; trap and trace devices; and other sophisticated practices for surfacing and interdicting crime.

d. Critical Program Information (CPI): Information, technologies, or systems that, if compromised, would degrade combat effectiveness, shorten the expected combat-effective life of the system, or significantly alter program direction. This includes classified military information or unclassified controlled information about such programs, technologies, or systems.

e. Fraud Against the Government: A category of major criminal offenses characterized by intentional deception designed to unlawfully deprive the United States (U.S.) of something of value or to seek from the U.S. a benefit, privilege, allowance or consideration to which a person is not entitled.

f. Infrastructure Protection Operations: Offensive cyber-related operations involving DON computer networks designed to counter and identify foreign intelligence, international terrorist, fraud, and criminal activity targeting or involving DON computers and networks.

g. Investigation: The application of law enforcement and/or counterintelligence authorities and methodologies to conduct a detailed, sustained, structured, and objective inquiry to ascertain the truth about an event, situation, or individual.

h. Joint Operations Area (JOA): An area of land, sea, and airspace, defined by a geographic combatant commander or subordinate unified commander, in which a joint force

commander (normally a joint task force commander) conducts military operations to accomplish a specific mission.

i. Major Criminal Offense: Any offense punishable under the Uniform Code of Military Justice (UCMJ), or similarly framed federal, state, local, or foreign statutes, by confinement for a term of more than one year.

j. Purely Military Offense: An act that is a criminal offense under the UCMJ solely because of the status of the offender, such as desertion, unauthorized absence, fraternization, etc.

k. Threat Warning and Analysis: All actions taken to provide early indications and warning of terrorist, foreign intelligence, criminal, security, and cyber threats, to include analysis, production, and dissemination, in an effort to prevent, mitigate, or warn DON or Department of Defense (DOD) forces of possible hostile or threatening activities.

4. Background. Reference (a) provides the statutory basis for the Secretary of the Navy in conducting "all affairs of the Department of the Navy." In executing this authority, the Secretary must often rely on prompt investigative action by professionally trained personnel for the effective investigation and resolution of alleged, suspected, or actual criminal offenses, terrorist or intelligence threats, and security compromises. Moreover, good order, discipline, and the security of naval forces, operations, information, automated networks, and facilities are the responsibility of command. Commanders require timely and actionable information, and when necessary, the preservation of an evidentiary foundation in order to ensure effective command decisions and action. Under the authority of the Secretary of the Navy, NCIS has primary investigative and counterintelligence jurisdiction within the DON for the above offenses and incidents, on and off naval installations and aboard ships, except as noted elsewhere in this instruction. This jurisdiction is grounded in federal statutes, Executive Orders, and DOD and Secretary of the Navy policy.

5. Organization

a. General: The Director, NCIS reports directly to the Secretary of the Navy. Headquarters NCIS is an Echelon 2 activity. Consistent with references (b) through (e), the Under Secretary of the Navy, with the assistance of the

General Counsel of the Navy, shall have responsibility for oversight of NCIS and shall serve as chair of the NCIS Board of Directors. In addition, the Director, NCIS serves as Special Assistant for Naval Investigative Matters and Security to the Chief of Naval Operations (CNO) (N09N).

b. Authority over Organizational Matters: The Director, NCIS, is authorized to organize, assign, and reassign responsibilities among NCIS subordinate activities.

c. NCIS Board of Directors (BOD): To assist the Secretary in providing DON corporate governance and in aligning NCIS resources and requirements across the spectrum of NCIS mission areas in order to ensure maximum feasible NCIS support for all DON components, the Under Secretary shall, on a regular basis, convene an NCIS BOD which he shall chair and which shall be further comprised of the DON General Counsel; the Vice Chief of Naval Operations; the Assistant Commandant of the Marine Corps; and the Director, NCIS. The NCIS BOD shall:

- (1) Review and validate NCIS Strategic Plans.
- (2) Identify, validate, and prioritize requirements relating to NCIS' core mission areas of investigating major criminal offenses (felonies), counterintelligence, combating terrorism, law enforcement, and security.
- (3) Assess the adequacy of NCIS resources and coordinate their allocation, as required, to respond to changing threats and mission demands.
- (4) Address, as necessary, NCIS requirements that exceed core mission response capabilities, including issues associated with special means to support sensitive NCIS operations.
- (5) Ensure that such mechanisms as are necessary to support the BOD in its assessment of NCIS requirements and capabilities and in addressing NCIS resource and mission issues are in place.
- (6) Assess the effectiveness of NCIS' linkage and coordination with other DON, DOD, and federal law enforcement, intelligence, and investigative entities.

(7) Review and evaluate such other areas as the BOD may determine.

6. Authority and Responsibility

a. The Director, NCIS is the senior official for criminal investigations, counterintelligence, and security within the DON. Furthermore, the Director, NCIS is the senior official within the DON for terrorism investigations and related operations designed to identify, detect, neutralize, or prevent terrorist planning and activities, and provides antiterrorism expertise and services to DON components. NCIS performs its duties under the authority of the Secretary of the Navy. NCIS initiates, conducts, and directs criminal, counterintelligence, terrorism and related investigations and operations as deemed appropriate, regardless of command authorization, pursuant to references (f) and (g). Moreover, NCIS conducts the full range of counterintelligence activities as delineated in references (h), (i), and (j). NCIS shall routinely ensure Navy and Marine Corps component commanders are apprised of NCIS CI activities per reference (j). The Director, NCIS shall advise the CNO and Commandant of the Marine Corps (CMC) on these matters in a timely manner and may provide the CNO and CMC information on such matters directly if necessary. NCIS shall establish and employ Security Training Assistance and Assessment Teams (STAAT) to conduct antiterrorism activities and law enforcement/security training.

b. Relationship with other DON Components and Activities: Successful resolution of criminal investigations and the effective identification of threats to the DON require timely notification and referral to NCIS, the cooperation of DON organizations and the protection of information regarding NCIS activities.

(1) DON commands and activities shall:

(a) Immediately refer to NCIS any incidents of actual, suspected, or alleged major criminal offenses, to include espionage, acts of terrorism, and all instances of suspicious activities or anomalies that might indicate the involvement of a foreign government or terrorist organization, regardless of whether they occur on or off an installation or ship or are being investigated by other authorities. Referrals must be made prior to any substantive investigative steps by the command, to include interrogation of suspects and

searches where individuals have an expectation of privacy, unless such investigative actions are necessary to protect life or property or prevent the destruction of evidence. The requirement for immediate referral shall not preclude efforts by first responders to safeguard personnel, secure crime scenes, or take other emergency responses in exigent circumstances. In those rare instances when immediate response by NCIS is not feasible, such as a submarine on patrol, commanding officers shall conduct such preliminary investigations as circumstances dictate, preparatory to a full investigation by NCIS. NCIS shall immediately be notified (where security considerations do not dictate otherwise) to facilitate NCIS guidance to commands. Appropriate measures will be taken to ensure the preservation and accounting of possible evidence and to avoid any action that might prejudice investigative possibilities or impair the judicial process. Offenses, incidents, anomalies, and other situations requiring immediate referral to NCIS are further identified in paragraph 7b.

(b) Respond to any NCIS request for information or assistance pursuant to an authorized investigation or operation as if made by the Secretary, including providing access to installations, information and records as specified in paragraph 6e.

(c) Not impede the use of investigative techniques deemed necessary and permissible under law or regulation by NCIS.

(d) Facilitate NCIS use of DON personnel as sources or in other undercover roles in investigations and operations targeting criminal, foreign intelligence, and terrorist activities whenever practicable. NCIS shall obtain initial concurrence of the commander or commanding officer prior to tasking a military member to perform in support of these operations. Use of DON civilian employees and contractors do not require command concurrence. Special considerations may apply in the case of individuals indoctrinated for access to Sensitive Compartmented Information (SCI). Where operational activities present a significant safety risk to other personnel, NCIS shall inform the installation commander, unless specific circumstances dictate otherwise.

(e) Ensure that NCIS information regarding investigations, operations, and related activities is not

compromised by command personnel, and to the extent possible, is limited to senior command personnel.

(f) Provide required logistical and communications support, within the limits of other operational commitments, when NCIS personnel are deployed with any naval unit.

(2) The Naval Inspector General (NAVINGEN): Whenever the NAVINGEN requests investigative assistance from the Director, NCIS on a priority basis, such request will be made in writing. The NAVINGEN and the Director, NCIS shall, to the extent possible, provide each other the results of investigative activity when such information impacts the mission and functions of the other. Any disagreement between the NAVINGEN and the Director, NCIS regarding the sharing of information or the conduct of a particular investigation shall be referred to the Secretary of the Navy for resolution. This relationship also applies to the Deputy Naval Inspector General for Marine Corps Matters.

(3) The Director of Naval Intelligence (DNI): The DNI serves as the DON sponsor for National Intelligence Program and Military Intelligence Program resources and is responsible for the development of counterintelligence policy in coordination with the Marine Corps Director of Intelligence (DIRINT) and Director, NCIS. The Director, NCIS shall support the DNI as set forth in reference (j). The Director, NCIS and the DNI shall also ensure the interoperability of intelligence, counterintelligence, and law enforcement related databases, systems, and capabilities to the maximum extent possible.

(4) Marine Corps Counterintelligence Elements: Reference (j) defines the relationship between NCIS and Marine Corps counterintelligence elements.

(5) Command Investigators: Many Navy and Marine Corps commands maintain an organic investigative capability. Use of command investigators for criminal and security investigations shall be limited to minor offenses (punishable by one year or less confinement), purely military offenses as defined herein, or cases that NCIS has declined to investigate. NCIS may enter into agreements with Navy and Marine Corps commands regarding command investigations into offenses meeting the definition of a major criminal offense.

These agreements, however, shall not prevent NCIS from assuming jurisdiction in the investigation of any offense.

(6) Command Investigations Conducted under the Manual of the Judge Advocate General (JAGMAN): Command investigations conducted under the JAGMAN shall not compromise or otherwise impede any NCIS investigation. If, during the conduct of an NCIS investigation, a commanding officer deems it necessary to proceed with a command investigation, that decision must first be coordinated with NCIS. If NCIS objects to the initiation of a command investigation, it will be suspended and the matter referred for resolution to the officer exercising general court-martial authority.

(7) Assistant General Counsel (Acquisition Integrity) (AGC(AI)): Within the DON, AGC(AI) is responsible for coordinating investigative, inspection-related, and audit-related efforts to assure the integrity of DON acquisition processes. NCIS shall support these efforts and forward matters under AGC(AI) cognizance to that office for action, as appropriate.

c. Relationships with the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA): Joint criminal investigations and counterintelligence activities within the United States conducted with the FBI are governed by Memorandums of Agreement between the Department of Justice (DOJ) and the DOD. Certain counterintelligence activities conducted overseas are conducted in coordination with the Central Intelligence Agency pursuant to Director of Central Intelligence Directive (DCID) 5/1, Espionage and Counterintelligence Activities Abroad, and a Memorandum of Agreement between the CIA and the DOD. These documents designate NCIS as having exclusive responsibility within the DON for coordinating and conducting the activities identified therein. USMC CI elements may conduct CI activities that do not require DCID 5/1 coordination in support of deployed Marine Corps forces, and shall do so in accordance with reference (j). When USMC CI elements conduct liaison with U.S. and foreign officials in support of deployed and deploying forces, they shall apprise the nearest NCIS element of the conduct of this activity.

d. Credentials and Badges: The Director, NCIS is authorized to issue credentials and badges to NCIS personnel accredited to perform investigations and related activities. DON personnel who are not duly accredited by the Director,

NCIS to perform such activities are prohibited from making any representation that indicates NCIS accreditation.

(1) Special Agents carry out the full range of duties associated with criminal investigations, counterintelligence activities, and other related activities. They are issued standardized credentials and badges identifying them as "Special Agents." Use of this title by any other individuals within the DON is prohibited.

(2) NCIS may seek to have agents from Marine Corps Criminal Investigation Division assigned to NCIS for duty as Special Agents. Marine Special Agents so assigned will carry NCIS credentials and badges, conduct criminal investigations under the authority of NCIS, and fall under the operational control of NCIS. While assigned duties with NCIS, Marine Special Agents may be authorized to undertake official duties in a manner that disassociates them from identification as a military member. Given their military status, Marine Special Agents may not exercise the arrest authorities extended to NCIS civilian Special Agents pursuant to reference (b).

(3) NCIS is supported by the Navy Reserve, which provides personnel to perform investigative and counterintelligence duties. These personnel are issued credentials and badges identifying them as Agents.

(4) NCIS also employs personnel who perform specialized investigative, analytical, and security functions in support of the NCIS mission. These personnel are issued standardized credentials identifying them as Investigators or Operational Representatives.

e. Access to Information and Facilities: Personnel issued NCIS Special Agent credentials have Top Secret security clearances. Special Agents, upon displaying their official credentials, shall be considered as having a need to know and shall be granted access to information, material, or spaces classified up to Top Secret and relevant to the performance of their official duties. This access applies to all types of command files, personnel records, medical records, training records, contract and procurement documents, and computer files and records, without further administrative requirements. As law enforcement officials and as agents of a health oversight agency, Special Agents are authorized to make written investigative demands for medical records in accordance with the requirements of Sections C7.4 and

C7.6.1.2.3. of reference (k). Access to SCI and Special Access Programs (SAPs) or similarly controlled information, spaces, or material shall be granted to NCIS personnel who have requested such access in advance as part of an authorized investigative, counterintelligence, or security matter and who have been verified as holding the appropriate level security clearance and are indoctrinated for access to SCI or the SAP in question. Prior verification shall be waived in exigent circumstances involving the protection of life or preservation of evidence; however, such verification shall be accomplished as soon as practicable. Consistent with the foregoing, personnel displaying NCIS Special Agent credentials shall be granted full access to Navy and Marine Corps installations, commands, ships, and other naval facilities. NCIS Special Agents who properly identify themselves as such shall, in the course of their official duties, be exempt from all routine searches of their persons, possessions, and materials, as well as vehicles and the occupants therein. Moreover, individuals escorted by a credentialed NCIS Special Agent shall not be required to display identification.

f. Apprehension and Arrest Authority: Reference (l) authorizes NCIS Special Agents, Agents, and Investigators to apprehend persons subject to the UCMJ. Pursuant to reference (b), civilian Special Agents are authorized to execute and serve any warrant or other process issued under the authority of the United States and to make any arrest without a warrant authorized under 10 U.S.C. § 1585a, in accordance with guidelines prescribed by the Secretary of the Navy and approved by the Secretary of Defense and the Attorney General.

g. Weapons: Consistent with reference (m), NCIS Special Agents are authorized to carry NCIS-approved firearms at all times, while on or off duty, and while on and off installations, aircraft, and ships. NCIS Special Agents are required to carry NCIS-approved firearms while on official business, except when in specific "exclusion areas" where special weapons/systems are stored. The need for a Special Agent to carry a firearm in such areas will be left to the discretion of the commander or commanding officer having responsibility for the "exclusion area." In addition, other accredited NCIS personnel may be authorized by the Director, NCIS to carry firearms.

h. Oaths: Those persons accredited by the Director, NCIS as Special Agents, Agents, Investigators, and Operational Representatives are authorized to administer oaths and take

sworn statements. This authority applies only to official investigative duties in connection with the investigative jurisdiction and responsibilities of NCIS, as set forth in this instruction. This authority is derived from reference (n).

i. Wire, Electronic, and Oral Interceptions for Law Enforcement: Within the DON, NCIS is exclusively authorized to intercept wire, electronic, and oral communications, and to install or use pen register and trap and trace devices for law enforcement in accordance with guidance set forth in reference (o). Within NCIS, only the Director may authorize or deny requests to conduct consensual interceptions of wire, electronic, or oral communications for law enforcement purposes.

j. Law Enforcement Communications: NCIS shall control and manage DON access to and use of the National Law Enforcement Telecommunications System (NLETS), the National Crime Information Center (NCIC), and similar national law enforcement telecommunications systems.

7. Mission and Functions

a. Mission: NCIS is a federal law enforcement agency that protects and defends the DON against terrorism and foreign intelligence threats, investigates major criminal offenses, enforces the criminal laws of the United States and the UCMJ, assists commands in maintaining good order and discipline, and provides law enforcement and security services to the Navy and Marine Corps on a worldwide basis.

b. Functions:

(1) Major Criminal Investigations: Within the DON, NCIS has primary responsibility for investigating actual, suspected, or alleged major criminal offenses, including espionage and acts of terrorism. NCIS shall investigate offenses committed against persons, the U.S. Government, or private property, and attempts or conspiracies to commit such offenses. In addition to all major criminal offenses, NCIS shall investigate the following categories of incidents:

(a) Any non-combat death, on or off naval installations, facilities, vessels, or aircraft, where the cause of death cannot be medically attributable to disease or natural causes. Pursuant to reference (p), NCIS shall

investigate the circumstances until criminal causality can be reasonably excluded.

(b) Any fire or explosion of unknown origin affecting DON property, or property under DON control.

(c) Incidents involving the loss or theft of ordnance, narcotics, dangerous drugs, or controlled substances.

(d) Missing command members, when foul play cannot be excluded.

(2) Criminal Operations: Within the DON, NCIS shall have exclusive jurisdiction to conduct Criminal Operations as defined herein. Other DON law enforcement elements may conduct activities consistent with their approved authorities and jurisdictional limits.

(3) Fraud Against the Government Offenses: NCIS shall conduct investigations into fraud against the government and has primary jurisdiction within the DON for the investigation of these offenses pursuant to references (q) and (r). The policies, procedures, and responsibilities for determining which DoJ or DOD criminal investigative organization will conduct the investigation of these offenses under the U.S. Code or UCMJ are set forth in reference (s).

(4) Counterintelligence and Counterterrorism Activities:

(a) NCIS shall conduct the full range of counterintelligence activities, as specified in references (i) and (j), to include counterterrorism activities designed to detect, identify and neutralize terrorist planning and activities. NCIS has exclusive investigative jurisdiction into actual, potential, or suspected acts of espionage, terrorism, sabotage, and assassination, or actual, suspected, or attempted defection by DON personnel. This exclusive jurisdiction does not prohibit USMC CI elements from conducting CI preliminary debriefing and reporting while supporting the immediate force protection needs of deployed Marine Corps forces. NCIS shall conduct all counterintelligence activities in accordance with references (j) and (t).

(b) Reference (t) assigns NCIS the primary responsibility for collecting, processing, storing, and disseminating counterintelligence information regarding U.S. persons, less those activities conducted by Marine Corps counterintelligence elements pursuant to reference (j). All such information obtained by commands will be forwarded to NCIS.

(c) Consistent with references (h) and (j), NCIS has exclusive jurisdiction within the DON to conduct strategic offensive counterintelligence operations (OFCO) designed to counter foreign intelligence or terrorist activities and to support operational commanders, the DON, and national level requirements.

(d) NCIS shall support Research and Technology Protection (RTP) by conducting counterintelligence activities that protect critical program information (CPI), technologies, or systems. The focus of this support is on DON research, development, technology, and evaluation (RDT&E) efforts, designated acquisition programs, and systems currently deployed. NCIS has exclusive jurisdiction within the DON for providing counterintelligence support to RTP, and pursuant to reference (u), commanding officers, program managers, and technical directors responsible for executing program protection plans shall incorporate NCIS Counterintelligence Support Plans when configuring plans for risk mitigation and threat countermeasures.

(5) Threat Warning and Analysis: NCIS shall maintain, direct, and operate the DON Multiple Threat Alert Center (MTAC) to provide Indications and Warning of terrorist, foreign intelligence, cyber, and criminal threats to the DON and to generate related analysis and production on matters of interest to the Department. The MTAC serves as NCIS' fusion center for law enforcement, intelligence, counterintelligence, security, and other threat information required to defeat terrorist, foreign intelligence, criminal, and related threats to DON personnel, installations, facilities, vessels, and aircraft, and it supports the national effort to combat terrorism. In addition, the MTAC serves as NCIS' operational control center, providing direct support to NCIS' investigations and operations as required. MTAC functions include:

(a) Maintaining 24 hour-a-day, 7 day-a-week watch and alert operations to continually monitor national,

service, theater, and other intelligence and law enforcement information to identify specific threats to DON assets, operations, and activities.

(b) Issuing threat reports, special analyses, intelligence assessments, advisories, and summaries to notify commanders of potential threats.

(c) Providing a centralized capability and locus for coordination of and direct support to NCIS investigations and operations.

(d) Supporting DON's Threat and Local Observation Notice reporting requirements by collecting and reporting this information and serving as the lead component within DON for the distribution of this information.

(6) Internal Security: Reference (u) directs NCIS and local commands to coordinate on the investigation of internal security incidents. The following are among those incidents within the investigative jurisdiction of NCIS:

(a) Loss, compromise or suspected compromise of classified information: Commands shall proceed with a preliminary inquiry, unless the NCIS Special Agent in Charge (SAC) requests that command actions be held in abeyance in order to preserve evidence for a criminal investigation. NCIS shall promptly notify commanders if it will initiate an investigation. NCIS shall document the results of all preliminary inquiries via the NCIS reporting system.

(b) Any request for classified information other than those made through official channels.

(c) Requests for unclassified information by individuals or organizations associated with a foreign government.

(d) Unofficial contacts with officials of a foreign government or members of an international terrorist organization.

(e) Incidents of suicide or attempted suicide by personnel with access to classified information.

(f) Incidents where DON personnel with access to classified information are missing or are considered an unauthorized absentee.

(7) Cyber Investigations and Operations: Pursuant to reference (v), NCIS shall maintain a staff skilled in the investigation of computer crime and the evaluation of the foreign intelligence threat to information warfare/command and control warfare (IW/C2W), and shall conduct counterintelligence activities in support of IW/C2W. NCIS has primary jurisdiction within the DON for certain cyber-related functions as they apply to DON computer networks, to include:

(a) Infrastructure protection operations.

(b) Cyber-related criminal investigations regarding unauthorized access, intrusion, denial of service, or viruses/malicious code.

(8) Support to Special Access Programs: NCIS shall assign appropriately cleared and qualified personnel to conduct the full range of counterintelligence activities, as delineated in references (w) and (x), to support DON Special Access Programs (SAPs) and other sensitive compartmented programs. NCIS shall also investigate fraud and other major criminal offenses involving these programs. Consistent with reference (y), commands shall identify and provide validated Critical Program Information (CPI) to enable NCIS to conduct specific and accurate threat analysis to support recommended security countermeasures.

(9) Technical Surveillance Countermeasures: Reference (z) designates NCIS as the DON Technical Surveillance Countermeasures (TSCM) Program Manager. NCIS shall manage TSCM counterintelligence investigative and related activities as delineated in references (z) and (aa). Such activities shall include support to DON critical information and infrastructure protection and technical security assurance.

(10) Naval Security Programs: The Director, NCIS shall serve as Special Assistant for Naval Investigative Matters and Security to the CNO (N09N).

(11) Protective Service Operations: Safe and effective Protective Service Operations require specialized expertise and careful operational coordination. Consistent

with references (bb) and (cc), NCIS shall serve as the executive agent for all Protective Service matters within the DON and shall execute exclusive jurisdiction and authority to conduct and coordinate Protective Service Operations to protect individuals who occupy designated DON High Risk Billets (HRBs) and other designated individuals, except as otherwise authorized by a combatant commander in a JOA. In addition, NCIS shall perform the following related functions:

(a) Participate in the review and validation of DON HRBs as Subject Matter Experts.

(b) Conduct Personal Security Vulnerability Assessments for designated DON HRBs to determine the level of risk and vulnerability to terrorist or criminal activities, and to determine the appropriate level of protection.

(c) Execute primary jurisdiction within the DON for support to the United States Secret Service and to DOD and non-DOD agencies conducting Protective Service Operations for U.S. government and foreign officials.

(12) Liaison: Within the DON, NCIS has exclusive responsibility for liaison with federal, state, local, and foreign law enforcement, security and intelligence agencies on all criminal investigative, counterintelligence, counterterrorism, and security matters assigned to NCIS by this instruction and its references. Commands may pursue interaction with federal, state, local, and foreign law enforcement, security, and intelligence agencies on antiterrorism matters, but shall do so in coordination with NCIS. Execution of this responsibility shall not limit any of the following:

(a) Contact between Navy and Marine Corps judge advocates and federal, state or local officials to determine prosecutorial jurisdiction and grants of immunity, coordinate pretrial agreements, or take any other action consistent with the duties of judge advocates.

(b) Interaction between commands and federal, state, local, or foreign law enforcement and security officials on routine matters involving physical security, minor offenses, purely military offenses, traffic matters, and training.

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(c) Liaison conducted by Marine Corps counterintelligence elements in accordance with reference (j).

c. Initiation, Reporting and Declination of NCIS Investigations and Operations:

(1) Initiation of Investigations:

(a) NCIS may initiate, independent of command request, any investigative action within the purview of this instruction and need not solicit authorization to conduct any investigation. NCIS shall, however, normally apprise the immediate senior in command (ISIC) of the person or organization being investigated that an investigation has been initiated. Any commander, commanding officer or other appropriate command authority within the Navy or Marine Corps may request NCIS assistance.

(b) Only the Secretary of the Navy may direct NCIS to delay, suspend, or terminate an investigation other than an investigation being conducted at the behest of the DOD Inspector General (IG). Only the DOD IG may direct NCIS to delay, suspend, or terminate an investigation being conducted at the behest of the DOD IG. Objections to NCIS investigations, or requests to delay, suspend, terminate, or discontinue NCIS investigations, shall be administered under the procedures of reference (g).

(2) Dissemination and Retention of Reports: NCIS shall:

(a) Provide to each command, prosecutorial authority or other appropriate activity a full report of investigation regarding any offenses or incidents investigated affecting that entity.

(b) Maintain a central repository for reports of investigation, counterintelligence data and security clearance adjudication files created by the DON Central Adjudication Facility (DON CAF).

(c) Maintain a record of disposition of command disciplinary actions or the actions of civilian judicial authorities. This includes the results of courts-martial, nonjudicial punishments, and actions by civilian criminal or civil proceedings. Commands are required to

provide the disposition of such cases to NCIS within thirty (30) days of the disposition action.

(d) Ensure all files created under the provisions of this instruction are retained and disposed of pursuant to reference (dd). Only the Director, NCIS may modify, destroy or authorize the modification or destruction of any such file.

(e) Promptly notify affected commanders of any information or aspect of investigative, counterintelligence or security activities indicating an actual or suspected threat to naval operations, personnel, facilities or other assets, or any occurrence which warrants the attention of fleet, component or combatant commanders, the DON/DOD leadership or other seat of government officials.

(f) Support, on a reciprocal basis, other federal, state, local or foreign law enforcement, security or intelligence agencies in lawful actions.

(3) Declination of Investigations: NCIS may, at its discretion, decline to undertake the investigation of a case. If this occurs, NCIS shall expeditiously inform the affected command or activity.

8. Effect of Other Regulations, Directives, Instructions, Notices. All SECNAV, Navy, and Marine Corps regulations, directives, instructions and notices pertaining to the assignment of duties to the former Naval Investigative Service Command (NISCOM), or delegating various authorities to NISCOM, remain in effect. All such responsibilities and delegations are transferred to NCIS as the successor to NISCOM.

9. Action. The Under Secretary of the Navy, CNO and CMC shall take appropriate action to ensure the updating of all regulations, directives, instructions and notices, specifically those involving law enforcement, counterintelligence and security, to comply with this instruction. All addressees shall take such action as is required to ensure compliance with this instruction.

Dionel M. Aviles
Under Secretary of the Navy

Distribution:
Electronic only, via Navy Directives Web site
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REFERENCES, continued

- (f) Public Law 99-145, National Defense Authorization Act, Section 1223, November 8, 1985
- (g) DOD Instruction 5505.3 of 21 June 2002
- (h) Executive Order 12333
- (i) DOD Directive 5240.2 of 22 May 1997
- (j) SECNAVINST 3850.2C
- (k) DOD 6025.18-R of 24 January 2003
- (l) Manual for Courts-Martial, RCM 302
- (m) SECNAVINST 5500.29C
- (n) Title 5 USC § 303(b)
- (o) DOD Directive 5505.9 of 20 April 1995
- (p) DOD Instruction 5505.10 of 31 January 1996
- (q) DOD Instruction 5505.2 of 6 February 2003
- (r) SECNAVINST 5430.92A
- (s) DOD Directive 5525.7 of 22 January 1985
- (t) DOD 5240.1-R of December 1982
- (u) SECNAVINST 5510.36
- (v) SECNAVINST 5239.3A
- (w) DOD Directive 5205.7 of 13 January 1997
- (x) SECNAVINST S5460.3C
- (y) DOD Directive 5200.39 of 10 September 1997
- (z) SECNAVINST 3850.4
- (aa) DOD Instruction 5240.5 of 23 May 1984
- (bb) DOD Directive 2000.12 of 18 August 2003
- (cc) DOD O2000.12-H of February 2004
- (dd) SECNAVINST 5212.5D