



Intelligence Oversight

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Inspector General of the Marine Corps

The mission of the Inspector General of the Marine Corps is to promote Marine Corps combat readiness, integrity, efficiency, effectiveness, and credibility through impartial and independent inspections, assessments, inquiries, and investigations



The Intelligence Oversight Division

To ensure the effective implementation of Marine Corps-wide oversight of Intelligence, Counterintelligence, Sensitive activities (to include USMC support to law enforcement agencies, special operations, and security matters), and Special Access Programs. To establish policy and ensure their legality, propriety and regulatory compliance with appropriate Department of Defense/ Department of the Navy guidance.

Web Links

Assistant to the SECDEF for Intel Oversight (ATSD-IO)
<http://www.defenselink.mil/atsdio/main.html>

Marine Corps Inspector General
<http://hqinet001.hqmc.usmc.mil/ig/>

Naval Inspector General
<http://www.ig.navy.mil/>

Contact Information

Mail:

Director, Intelligence Oversight
Inspector General of the Marine Corps
Headquarters U.S. Marine Corps
FOB#2 Navy Annex, Rm 2234
Washington, District of Columbia 20380-1775
Intelligence Oversight Division Staff
GS15 Edwin T. Vogt, Director
LtCol Kimo Hollingsworth, Deputy Director-0202
LtCol Richard S. Martindell, Sensitive Activities, 5803

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Message from the Director, Intelligence Oversight

I would like to thank all of you for your comments on the inaugural issue in January 2008. I am very pleased with the positive response from the fleet and I will strive to continue with an informative and useful product for the Marine Corps Intelligence Community. As a more encompassing email distribution list is garnered, I ask that each of you pass on your copy to those you know will benefit from the information.

As many of you are aware, there is great reform afoot with regard to Intelligence Oversight starting with Executive Order 12333 which was initially created in December 1981 regarding United States Intelligence Activities. This EO is the overarching directive which feeds subordinate directives that are more restrictive in nature on the conduct of intelligence activities, specifically members of the Department of Defense.



EO 12333 has been rewritten in part and is currently awaiting signature by the President. Once signed, this will trigger a rewrite of current DoD Directives, Secretary of the Navy Instructions and Marine Corps Orders with respect to Intelligence Oversight. The office of the Assistant to the Secretary of Defense for Intelligence Oversight will promulgate new guidance when the EO is published.

The Presidents Intelligence Oversight Board has been reinvigorated and is attempting to amend current reporting requirements of questionable activities and intelligence oversight violations within the Intelligence Community writ large. This will mean a significant change in what is reported and how it flows up the chain.

With regard to oversight and protections for the civil liberties of Americans, H.R. 6304 contains provisions that protect the civil liberties of Americans and allow for extensive executive, congressional, and judicial oversight of the use of the authorities. The bill would require the Attorney General and the Director of National Intelligence to conduct semiannual assessments of compliance with targeting and minimization procedures and to submit those assessments to the Foreign Intelligence Surveillance Court and to Congress. Congress would receive reviews from the Inspectors General of these agencies and the Department of Justice regarding compliance with the provisions of the bill. (A.G. / DNI Letter 19 June 2008.)

While oversight rules and regulations have been embedded within the intelligence community for a while, they have recently been in the forefront of the media. The applications of these rules have come under scrutiny of late and interpretations have differed in some instances. The current revisions are an effort to clear up some of the “unclear” issues.

Intelligence Oversight is becoming increasingly more prevalent, especially in light of the modernization of the Foreign Intelligence Surveillance Act which is necessary to be effective in this electronic age. As Marine Corps Intelligence professionals, we need to be mindful of the changes in legislation and make the necessary adjustments in conducting our business. It is the intent of this newsletter to be a conduit of information to the fleet in that regard.

Semper Fidelis
Edwin T. Vogt
Director, Intelligence Oversight Division
Office of the Inspector General of the Marine Corps
Ph: 703-692-7445 DSN: 222-7445 Email: Edwin.Vogt@usmc.mil

Feature Article

Overview of the DoD Non-Lethal Weapons Program

By MSgt Kristine Scarber

The feature article for this issue of the Intelligence Oversight Journal is an overview of Department of Defense's Non-Lethal Weapons Program.

The Commandant of the Marine Corps serves as the DoD Executive Agent for Non-Lethal Weapons. Day-to-day activities in support of the CMC in this role are conducted by the Joint Non-Lethal Weapons Directorate.

Department of Defense Directive 3000.3 defines non-lethal weapons as “weapons, devices and munitions that are explicitly designed and primarily employed to immediately incapacitate targeted personnel or materiel, while minimizing fatalities, permanent injury to personnel, and undesired damage to property in the target area or environment. Non-lethal weapons are intended to have reversible effects on personnel and materiel.” Non-lethal weapons are designed and employed to achieve military objectives while minimizing human casualties or damage to property and equipment. Non-lethal weapons can help clarify intent of an adversary.

Employment of non-lethal weapons augment a unit's lethal capabilities, it does not replace them. Non-lethal technologies have the potential to provide military commanders a flexible response allowing them to scale their actions while minimizing the extent of damage to the local populace and environment.

Non-lethal weapons play a critical role in the DoD, filling gaps between “shouting and shooting” as part of the escalation of force, allowing commanders to elevate or decrease his response to a suspected target as the situation changes.

Types of missions and environments supported by non-lethal weapons include:

- Complex and Urban Terrain
 - Facility or infrastructure security
- Checkpoint security
 - Entry control points
 - Maritime or port security
- Convoy operations
 - Operations security
 - Provide unambiguous warning
- Crowd management
 - Intermingled belligerent and innocents
 - Humanitarian aid distribution security

The reversibility of the effects of non-lethal weapons is an important distinction over lethal weapons. Reversibility simply means a war fighter is able to return a target, be it a human or materiel target, back to its pre-engagement condition.

Non-lethal weapons, munitions and devices which are currently fielded include:

- Optical distracters – These are non-blinding laser devices that use highly directional optical energy used to temporarily overwhelm an adversary's visual sense; provide an unequivocal, non-verbal warning; or provide the target an opportunity to clarify intent.
- 12-gauge munitions – These are fin stabilized rubber projectile that are considered blunt impact munitions and are fired from a 12-gauge shot gun.
- 40mm munitions – These are wood and foam baton rounds which are shot from the M-16 mounted, M203, and are also considered blunt impact munitions.
- Acoustic hailing devices – These include highly directional acoustic arrays that are designed for communication. These devices can issue verbal warnings and have the capability of following up with a deterrent tone to influence behavior or determine intent.
- Vehicle lightweight arresting device – This is a counter-materiel, non-lethal vehicle stopping device. When a vehicle passes over

the system it wraps around one or both front tires and axle, forcing the vehicle to slow down and come to a complete stop

- Caltrops – This is a metal device with four projecting spikes so arranged that when three of the spikes are on the ground, the fourth points upward, and is used as a hazard to pneumatic tires
- Magnum spike strips – These are tire deflation devices that disable vehicles quickly while ensuring the safety of service members and targets
- FN-303 less-than-lethal launcher – This is a semiautomatic-only, non-lethal, marking projectile launcher powered by compressed air useable against personnel and materiel
- Sting ball grenades- These produce a loud sound, a bright flash of light, and distribute a large number of small rubber pellets for crowd control or personnel incapacitation, or to clear facilities of personnel.
- MK-84 Flash bang grenade – This NLW produces a 2-4 second distraction and disorientation from the flash-dazzle effect and deafening sound as well as the overpressure effects, and is used in facility clearing operations.
- Oleoresin capsicum – This is a chemical compound commonly known as pepper spray that irritates the eyes to cause tears and pain.

Any new weapon developed under the auspices of the DoD is required to undergo a thorough legal and treaty compliance review prior to fielding. Non-lethal weapons are no exception. All previously and currently fielded non-lethal weapons have undergone legal reviews to ensure consistency with domestic law, and compliance with obligations assumed by the United States under applicable treaties, customary international law, and the law of armed conflict.

The oversight of non-lethal weapons begins at their inception and continues during development and employment. Updated information is constantly reviewed as to whether the systems should continue being used, modified or discontinued.

Intelligence Oversight Inspections-What to Expect

The purpose of an IGMC Oversight Division inspection is to ensure that the inspected activity is in compliance with oversight regulations. Equally important, our inspections usually increase the awareness of Intelligence Oversight, and will most likely assist in improving local oversight programs.

While the IGMC Oversight Division can conduct an inspection without notice, we will almost always provide advance notice of our intended inspection plans, and also request your assistance in preparing for the inspection. Our ultimate goal is to ensure compliance with intelligence oversight laws and regulations without interfering with your unit's mission.

When we arrive at your facility, you will receive a briefing on our mission, our organization and the procedure and types of things we will be inspecting. Be prepared to provide us with a mission and functions type briefing to include information on your mission, organization, on-going major activities, and Intelligence Oversight training/awareness program. We prefer and encourage dialogue and discussion during and after these presentations. We will most likely ask to review records or files, whether in hard copy or stored electronically, and we may ask to interview personnel regarding their knowledge of applicable laws and regulations. Should there be deficiencies noted in the Command's intelligence oversight program, we will attempt to resolve these issues during the inspection.

Intelligence Oversight in a Reserve Environment

Per Marine Corps Order 3800.2B, Oversight of Intelligence Activities, there is a requirement for all Marines and civilians with an Intel MOS or series (to include contractors) working within the intelligence realm to receive annual intelligence oversight refresher training. Reserve Marines can sometimes venture into areas that may be problematic for the Marine Corps because of

affiliations outside their reserve duty. Special and **focused** attention should be addressed to Reserve intelligence Marines when a unit conducts its annual oversight refresher training.

Many Reserve Marines serve as intelligence or law enforcement professionals in their civilian employment – to include other federal agencies that may actively collect or disseminate intelligence on U.S. persons during their course of duty. As a Reserve Marine, it can be extremely easy to consider using civilian credentials for military duty and military credentials for civilian duty – especially for those tasked to interact with the military or a military command because of their affiliations to a uniformed service. Overall, a good solid foundation of intelligence oversight, through training, education and good situational awareness will prevent violations of the law.

Training Scenarios

INTELLIGENCE OVERSIGHT RELATED TO CONUS ANTITERRORISM / FORCE PROTECTION

This information is provided to assist commands in determining what role military intelligence can play to support the commander specifically in providing intelligence on the current international terrorism threat to our forces, property and installations within the continental United States (CONUS). But, before we launch into the subject of Intelligence Oversight related to CONUS antiterrorism/force protection a few preliminary questions must be posed and answered.

Scenario #1. During a routine UAV flight, the ground crew observes an area that appears to be a plot of marijuana. The area can't be identified as either public or private property. The ground crew decides to fly the perimeter of the area and record the imagery IOT obtain sufficient evidence for LE.

A1. Because of the diversion from the authorized flight plan and the collection of domestic imagery not previously approved, this would be an inappropriate use of specialized equipment and an unauthorized collection of domestic imagery.

Although overhead reconnaissance can be used to collect information not directed at specific US persons (Procedure 2, DoD Regulation 5240.1-R) there are at least two potential problems with this scenario: A) The property can't be positively identified as public. B) The flight crew deviated from an authorized flight plan and approved domestic imagery collection. However, Procedure 12 authorizes the sharing of information incidentally obtained, during authorized activities, with local, state, or federal LE agencies. So that information observed during the original flight plan could be reported to local LE. * **Any command wishing to report information to local, state or federal LE should first obtain SJA review and coordinate with NCIS, and should not exercise direct liaison unless specifically granted.**

Scenario #2. A command member's behavior and comments raises suspicions as to his loyalty to the U.S. and he is known to be a member of a local chapter of a cultural organization. The member has clearance/access. In order to better assess these suspicions the command asks another member to take advantage of the former's invitation to visit the organization and report back to the command with her observations.

A2. Procedure 10 specifically prohibits undisclosed participation in domestic organization for purposes other than lawful foreign intelligence or counterintelligence investigations. However, this behavior may be reported to NCIS for investigation.

Scenario #3. Local Law enforcement is investigating black market activity and has a person in custody who only speaks a foreign language. If requested, can the command provide linguistic support to law enforcement interviews or interrogations? Are there any restrictions to this support?

A3. Procedure 12 provides for occasions which a command may support federal LE, and, when lives are endangered, local and state LE, with intelligence personnel, methods, or equipment. Therefore, this scenario would normally prevent the command from assigning a 02XX or 26XX person to support this request. However, the command could provide a linguist from any other MOS to support without raising question about intelligence oversight. SECNAVINST 5820.7C governs support to LE and delineates specific approval authority.

The Intel Community



05/03/2008 - U.S. Marine Corps Sgt. Paul Ramos radios in for aerial support during a training exercise at Melrose Bombing Range on Cannon Air Force Base, N.M., May 3, 2008. Ramos is assigned to Delta Company, 4th Reconnaissance Battalion, which is responsible for conducting reconnaissance, security and economy of force operations within their capabilities. DoD photo by Airman 1st Class Liliana Moreno, U.S. Air Force. (Released)

U.S. Marine Corps Lance Cpl. Gerardo Vargasspatino and Cpl. Stevena Pen, from the Personal Security Detachment, H&S Company, 2nd Battalion, 7th Marine Regiment, eat breakfast by their vehicles at the Forward Operating Base in Bala Baluk, Afghanistan, June 14, 2008. The Marines are based out of Marine Air Ground Combat Center 29 Palms, Calif. (U.S. Marine Corps photo by Gunnery Sgt. Clint Ruyon/Released)



U.S. Marines with the Iraqi Women's Engagement team, 1st Marine Logistics Group, Headquarters and Services Company meet with local women in the Al Anbar province of Iraq June 26, 2008. The team consists of female Marines and interpreters who listen to the concerns of Iraqi women and discuss ways to improve their quality of life. DoD photo by Lance Cpl. Gabriela Garcia, U.S. Marine Corps. (Released)