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KSNG SOP 381-10

Military Intelligence

Intelligence Oversight

By order of the Adjutant General:


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History. This issue publishes a revision of this publication.

Summary. This publication establishes policies and procedures governing the KSNG Military Intelligence Oversight program.

Supplementation. Supplementation of this publication is prohibited.

Suggested Improvements. The proponent of this publication is the JFHQ-KS-J2. Users are invited to send comments and suggested improvement to The Adjutant General's Department, ATTN: JFHQ-KS-J2, 2800 SW Topeka Blvd, Topeka, KS 66611-1287

Distribution. A

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This SOP supersedes KSARNG SOP 381-10, dated 24 January 2003

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Chapter 1

General

1-1. Applicability

Applicable to all members of the Kansas National Guard who are assigned to J-2, G-2, S-2, and Kansas Joint Forces Headquarters Security Compartmented Information Facility (SCIF), including but not limited to Counter Drug and 73rd CST or other intelligence collecting and analysis activities.

1-2. Purpose

- a. Establish standard operating procedures concerning the collection, analysis, maintenance, and dissemination of intelligence information by KSNG personnel.
- b. Identify intelligence oversight training requirements.
- c. Establish procedures for reporting questionable and/or potentially questionable activities or procedures IAW AR 381-10 or AFI 14-104.

1-3. References

Required and related publications are listed in Appendix A.

Chapter 2

Intelligence Oversight Program

2-1. Intelligence Oversight Monitor

- a. The Primary Intelligence Oversight (IO) Monitor for the Kansas National Guard is the J-2 Senior Intelligence Officer (SIO). The alternate IO Monitor will be appointed by the J2 SIO.
- b. Each major subordinate command and battalion headquarters with an S-2/G-2 section and/or any units/activities involved in intelligence activities will appoint a Primary and an Alternate IO Monitor. IO Monitors will be appointed on a memorandum (see figure 2-1) signed by the unit/activity commander. A copy of the appointment will be provided to the State IO Monitor ATTN: J-2 Senior Intelligence Officer.
- c. Each IO Monitor will be trained IAW the outline in figure 2-2.
- d. Each IO Monitor will maintain a copy of this publication and each of the required references listed in Appendix A in a tabbed notebook usually referred to as the IO Smartbook.

2-2. Intelligence Oversight Training

- a. Upon assignment to a J-2/S-2/G-2 section, Kansas Joint Forces Headquarters Security Compartmented Information Facility (SCIF), or other intelligence activities and duties, Soldiers will be briefed by the appropriate IO Monitor. As a minimum, this briefing will include applicable regulations/SOPs, restraints, guidelines of the duty, and minimum familiarity standards (see figures 2-2 and 2-3). This briefing will be documented using the IO Training Register located on the last page of this publication.
- b. All personnel assigned to J-2/S-2/G-2 sections or other intelligence activities will receive annual refresher training. This training will be provided by the appropriate IO Monitor and include applicable regulations/SOPs, restraints, guidelines of duty, and Minimum Familiarity Standards. This training will be scheduled on the yearly training schedule and the unit training schedule and documented using the I/O Training Register, which is located on the last page of this publication.
- c. A standard Intelligence Oversight training brief and video were provided to each brigade and battalion. Additional copies are available from the J-2 Senior Intelligence Officer.

2-3. Compliance Inspections

- a. Compliance inspections will be conducted as part of each command unit's Command Inspection Program.
- b. J-2/Inspector General (IG) inspectors will verify IO appointments, training on unit training schedules, IO Training Registers (who attended training vs. assigned personnel), and references.

Unit Letterhead

Office Symbol or UIC

Date

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Duty Appointment

1. Effective (date), the following individual is appointed as Primary (or Alternate) Intelligence Oversight Monitor

Rank & Name:

Unit of Assignment:

2. Authority: KSNG SOP 381-10, paragraph 2-1.

3. Purpose: Execute this command's Intelligence Oversight Program IAW KSNG SOP 381-10 and other applicable directives.

4. Period: Until officially relieved or released from appointment or assignment (or exact period, if known).

5. Special Instructions:

- a. Provide initial and annual refresher training for all personnel assigned to intelligence activities.
- b. Investigate and correct improper and/or questionable activities as identified.

Commander's signature block

DISTRIBUTION:

- 1 – Appointee
- 1 – Unit of Assignment
- 1 – Bn level S-2
- 1 – Bde level S-2
- 1 – JFHQ-KS-J2
- 1 – MPRJ

Figure 2-1. Sample Intelligence Oversight Monitor Duty Appointment

2-4. Specific Limitations

- a. National Guard personnel, facilities and/or equipment assets WILL NOT BE USED to collect, analyze, retain, or disseminate information concerning U.S. persons. The definition of a U.S. Person is a United States citizen, an alien known by the Department of Defense (DoD) intelligence component to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, and a corporation incorporated in the United States.
- b. This SOP does not in itself authorize intelligence activity. The unit must first have the mission and authority to conduct the intelligence activities.
- c. Exceptions. Exceptions to this limitation are clearly defined in AR 381-10, Part 2. Additionally, National Guard linguists when translating tapes for law enforcement agencies and counterdrug personnel during the conduct of a valid counterdrug support mission are exempt. In both of these situations, when the mission and/or task have been completed, all information concerning U.S. persons will be turned over to the supported law enforcement agency.
- d. Force Protection. Intelligence activities (resources, personnel, and equipment) may not legally be directed to target or intentionally collect information on U.S. persons for force protection purposes. However, information received by intelligence activities identifying U.S. persons who are alleged to threaten the force must be passed to the threatened commander and the organization responsible for countering that threat (e.g., DOMS). The responsibility of force protection resides with DCSOPS-P. Intelligence activities/sections can provide analytical advice and assistance to the operations activity for Antiterrorism/Force Protection. Intelligence specific skill sets may also be detailed to support operations activities and not violate Intelligence Oversight policy.

2-5. Intelligence Operations

- a. The following guidance applies to Counterintelligence (CI) activities:
 - (1) Counterintelligence involves gathering information and performing activities to protect against espionage, other intelligence activities, international terrorist activities, sabotage, or assassinations conducted for or on the behalf of foreign powers, organizations, or persons.
 - (2) KSNG personnel could become involved in a counterintelligence mission upon mobilization or by functioning in direct support of an active component organization IAW AR 381-20.
 - (3) There are no National Guard units authorized to engage in counterintelligence activities, excluding training.
 - (4) Other possible CI activity falls under the jurisdiction of the Federal Bureau of Investigation (FBI). This delineation of responsibility is based on "The Agreement between the Deputy Secretary of Defense and Attorney General, April 05, 1979", an extract of which is annotated on page 17 of AR 380-10. This reference clearly indicates that the National Guard does not have the independent authority necessary to engage in counterintelligence missions, except for training purposes only.
 - (5) Imagery Intelligence (IMINT) can include photographic, infrared, radar, and electro-optic tools and systems that capture images using ground or areal based systems. These systems, once confined to terrain mapping or for use in military exercises are now used in support of counterdrug operations. As long as these systems are not targeted against U.S. Persons, and guard members are following the guidelines of NGR (AR) 500-2 and NGR (AF) 55-6, training exercises can employ this equipment.

1. Each National Guard member assigned to an S-2/G-2 section or other intelligence activity will, as a minimum, be familiar with the standards contained in this appendix concerning intelligence activities.
2. PROCEDURE 1: If collecting information on U.S. persons, remember that:
 - a. The activity must not infringe upon a U.S. person's constitutional rights and/or right to privacy.
 - b. The intrusion must be limited to the least intrusive type possible.
 - c. The National Guard is not authorized to conduct independent intelligence activities.
3. PROCEDURE 2: Collected information must fit into one of the following categories:
 - a. Information obtained with consent.
 - b. Publicly available information.
 - c. Foreign intelligence.
 - d. Counterintelligence.
 - e. Information regarding potential sources of assistance.
 - f. Information regarding the protection of intelligence sources and methods.
 - g. Physical security.
 - h. Personnel security investigation.
 - i. Communications security.
 - j. Persons believed to be engaged in international narcotics activities.
 - k. Information needed to protect the safety of a person or organization.
 - l. Information required for administrative purposes.
4. **National Guard members cannot conduct domestic counterintelligence activities in a Title 32 duty status.**

Figure 2-2. Minimum Familiarity Standard

5. PROCEDURE 3: Information regarding U.S. persons may be kept in National Guard facilities only if it meets the following criteria:
 - a. The individual concerned has given consent, or;
 - b. There is a valid administrative purpose for retention of the information and the information
 - i. Fits into one of the categories listed under PROCEDURE 2.
 - ii. Was acquired incidentally.
 - iii. Relates to functions of other U.S. Government agencies.
6. PROCEDURE 4: Information collected by the National Guard may be disseminated to the following agencies:
 - a. DOD agencies and/or contractors if required for official duties/purposes.
 - b. Federal, State, and Local Law Enforcement Agencies if the information is related to involvement in illegal activities.
 - c. Non-Law Enforcement, Non-Intelligence Federal Agency if the information relates to the performance of the lawful functions of said agency.
7. PROCEDURE 12: This procedure applies to the assistance by military intelligence to law enforcement authorities.
8. PROCEDURE 14: Each individual is required to be familiar with the information contained in this appendix.
9. **UNIT CHAINS OF COMMAND AND/OR ACTIVITY SUPERVISORS WILL NOT TAKE ADVERSE ACTIONS AGAINST ANY INDIVIDUAL REPORTING A QUESTIONABLE OR PERCEIVED IMPROPER INTELLIGENCE ACTIVITY.**
10. PROCEDURE 15: Individuals should report any questionable or perceived improper intelligence activities regardless of whether U.S. persons were involved or not. (See Figure 2-4 for reporting procedures and information format).

Figure 2-2. Minimum Familiarity Standard Continued

2-6. Reporting Violations or Questionable Activities

- a. All unit personnel have a responsibility to report intelligence activities that may appear to be questionable or improper. Reports can be submitted to the following:
 - (1) Unit Chain of Command (Preferred method).
 - (2) IO Monitors at Battalion, Major Subordinate Command, J-2 Senior Intelligence Officer, and/or State HQs (785) 274-1116.
 - (3) The Legal Advisor to the Adjutant General (785) 274-1024.
 - (4) The State Inspector General (785) 274-1020.
 - (5) The NGB Inspector General (703) 607-2515.
 - (6) The Army Inspector General, ATTN: IO Division (703) 697-6698.
 - (7) The Army General Counsel.
- b. Use of the unit chain of command is the preferred reporting channel. However its use is not required. Regardless of reporting channels, **NO ADVERSE ACTIONS WILL BE TAKEN AGAINST ANY PERSON WHO REPORTS A QUESTIONABLE ACTIVITY.**

2-7. Quarterly Intelligence Oversight Reports

All IO Monitors will submit quarterly Intelligence Oversight training and inspections conducted during the past quarter along with any violation or questionable activities to the KSNG Inspector General with a copy to the State I/O Monitor, ATTN: J-2 Senior Intelligence Officer NLT the 5th day after the close of the quarter.

1. The Intelligence Oversight Program establishes a balance between the rights of a U.S. person and the government's legitimate need for essential information. It does this through Executive Order 12333, which ensures:

- a. Protection of a U.S. person's constitutional rights and privacy.
- b. Collection of essential authorized information by the least intrusive means.
- c. Dissemination of information is limited to lawful government purposes.

2. The purpose of this briefing is to familiarize you with current policies regarding the Intelligence Oversight Program and National Guard information/intelligence collection activities. These policies are applicable to any situation where you might be involved in collecting information on U.S. persons. Particularly, if you are a member of the National Guard intelligence community, or you are involved in military support to civil authorities operations, or you are involved in the counterdrug support program.

3. Intelligence activities conducted by the National Guard are governed by NGR (AR) 381-10. This regulation requires compliance with DoD 5240.1-R. This directive contains 15 procedures that allow intelligence personnel to carry out authorized missions while ensuring that all activities concerning U.S. persons are conducted in manner that protects their constitutional rights. This also applies to information collection and processing activities performed by non-intelligence personnel.

4. Given your assignment, there is a potential for you to be called upon to perform intelligence duties. It is for that reason, you must be familiar with Procedures 1 thru 4, 14, and 15 of DoD 5240.1-R. Remember though, these are the minimum essential standards. There may be some additional procedures that will apply, depending upon the type of information collection you may perform. Those procedures will be summarized in this briefing. You will know what they are and where to go to find additional information.

5. Your unit has appointed primary and alternate Intelligence Oversight (IO) Monitors. They are:

The IO Monitors will ensure that you remain familiar with current and pertinent policies and/or regulations and provide assistance as needed.

6. You will now review the applicable procedures as listed in AR 381-10, U.S. Army Intelligence Activities. Your IO Monitor will indicate which procedures are applicable to your duty assignment

Figure 2-3. Sample Intelligence Oversight briefing

1. Use this format or the Serious Incident Report format to report questionable or improper intelligence activities.
2. Provide this information to:
 - a. Your Unit Chain of Command.
 - b. Your Unit Intelligence Oversight Monitor.
 - c. The State Inspector General (785) 274-1020.
 - d. The Legal Advisor to the Adjutant General (785) 274-1024.
 - e. The State Intelligence Oversight Monitor (785) 274-1488.
3. When submitting a report, include the following information:
 - a. **WHO:** Who was responsible for the questionable activity?
 - b. **WHAT:** What was the questionable activity?
 - c. **WHEN:** Date and Time that the activity happened.
 - e. **WHERE:** Location where the activity took place.
4. **ADVERSE ACTIONS CANNOT BE TAKEN AGAINST A SOLDIER FOR SUBMITTING THIS REPORT.**

Figure 2-4. Questionable or Improper Activity Report

Appendix A References

A-1. Required Publications

Executive Order 12333, United States Intelligence Activities

DoD Directive 5148.11, Assistant to the Secretary of Defense for Intelligence Oversight (ATSD (IO))

DoD Directive 5200.27, Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense

DoD Directive 5240.1, DoD Intelligence Activities

DoD Regulation 5240.1-R, Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons (procedures 1-15 and appendix A)

AR 381-10, US Army Intelligence Activities

NGR 20-10/ANGI 14-101, Inspector General Oversight Procedures

AFI 14-104, Oversight of Intelligence Activities

Intelligence Oversight Monitor Appointment

Intelligence Oversight Training Register

Intelligence Oversight Checklist

Intelligence Oversight Standard Briefing & POI

Intelligence Oversight Inspections

Intelligence Oversight Scenarios

Intelligence Oversight Program Helpful Information

Frequently Asked Questions

IG Intelligence Oversight User Guide

Web site information

Helpful Ideas

Messages & Memorandums Related to Force Protection and Intelligence Oversight

A-2. Related Publications

A related publication is merely a source of additional information. The user does not necessarily have to read it to understand this publication.

NGR 500-2/ANGI 10-801, National Guard Counterdrug Support

www.dami.army.pentagon.mil, Army Deputy Chief of Staff, G-2, website

AR 381-20, The Army Counterintelligence Program

