



February 28, 2011

U.S. Senate  
Washington, D.C. 20515

Re: U.S. Intelligence Operations Targeting Members of Congress

AMERICAN CIVIL  
LIBERTIES UNION  
WASHINGTON  
LEGISLATIVE OFFICE  
915 15th STREET, NW, 6<sup>TH</sup> FL  
WASHINGTON, DC 20005  
T/202.544.1681  
F/202.546.0738  
[WWW.ACLU.ORG](http://WWW.ACLU.ORG)

LAURA W. MURPHY  
DIRECTOR

NATIONAL OFFICE  
125 BROAD STREET, 18<sup>TH</sup> FL.  
NEW YORK, NY 10004-2400  
T/212.549.2500

OFFICERS AND DIRECTORS  
SUSAN N. HERMAN  
PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

ROBERT REMAR  
TREASURER

Dear Senator:

On February 23, 2011 *Rolling Stone* magazine published an article revealing a United States Army psychological operations effort intended to manipulate members of Congress into supporting U.S. troop and funding increases for the war in Afghanistan.<sup>1</sup> If true, this activity was conducted in direct violation of U.S. law and Department of Defense (DoD) policy, and represents an affront to core democratic principles of civilian control over the military. We urge Congress to investigate these activities to determine: 1) whether military intelligence resources or personnel were used to improperly collect information on members of Congress in violation of prohibitions against targeting U.S. persons; and 2) whether military information operations were directed at members of Congress in order to improperly influence legislation or manipulate domestic public opinion regarding the war effort, in violation of federal law and DoD policy.

The *Rolling Stone* article reports that U.S. Army officers assigned to an “information operations” cell allege they were directed by their commanders to help them “secretly manipulate the U.S. lawmakers without their knowledge” and plant ideas “inside their heads” so they would provide more U.S. troops to Afghanistan. In addition to compiling dossiers regarding routine information about the members of Congress, their voting records and “hot button” issues, this effort reportedly also directed information operations personnel to conduct a “deeper analysis of pressure points we could use to leverage the delegation for more funds.”

DoD policy defines “Information Operations” (IO) as:

...the integrated employment of the core capabilities of electronic warfare (EW), computer network operations (CNO), PSYOP, military deception (MILDEC), and

---

<sup>1</sup> Michael Hastings, “Another Runaway General,” *Rolling Stone*, (Feb. 23, 2011), at: <http://www.rollingstone.com/politics/news/another-runaway-general-army-deploys-psy-ops-on-u-s-senators-20110223>.

operations security (OPSEC), in concert with supporting and related capabilities to influence, disrupt, corrupt, or usurp adversarial human and automated decisionmaking while protecting our own. As a core capability of IO, PSYOP play a central role in the achievement of the JFC's information objectives through its ability to induce or reinforce adversary attitudes and behavior favorable to these objectives.<sup>2</sup>

The same policy states the specific purpose of "Psychological Operations" (PSYOP) is to "influence foreign audience perception and subsequent behavior as part of approved programs in support of USG policy and military objectives."<sup>3</sup> Both IO and PSYOP are distinguished in official policy from DoD public affairs operations, which are designed to "provide truthful, timely, accurate information" to domestic and international audiences. Because IO and PSYOP targeting adversaries and foreign audiences are often designed to influence, disrupt or corrupt an adversary or foreign government, there is no requirement for truth or accuracy. To prevent the military from using such propaganda operations to mislead Americans, DoD policy makes clear that "US PSYOP forces will not target US citizens at any time, in any location globally, or under any circumstances."<sup>4</sup>

This prohibition against targeting U.S. persons with these propaganda tools is based in U.S. laws, Executive Orders and presidential directives governing international information practices and intelligence operations. When Congress passed the National Security Act of 1947 it "drew a bright line" between foreign and domestic intelligence operations, to better protect Americans' civil liberties.<sup>5</sup> Executive orders and presidential directives implementing the Act regulated these intelligence activities and limited the collection of U.S. person information by the U.S. military and intelligence community.<sup>6</sup>

Specifically regarding information operations such as the activities discussed in the *Rolling Stone* article, Congress first authorized and funded government propaganda operations abroad with the Smith-Mundt Act in 1948, but directed that the information produced in such programs for foreign audiences "shall not be disseminated within the United States, its territories, or possessions."<sup>7</sup> Though expressly directed at State Department programs created in the Act, this language was interpreted by Congress and the DoD to apply government-wide, as DoD had no independent authority to conduct international information operations.<sup>8</sup> Congress more directly

---

<sup>2</sup> U.S. Department of Defense Joint Publication 3-13.2, "Psychological Operations," p. ix, (Sept. 11, 2009), available at: <http://www.fas.org/irp/doddir/dod/jp3-13-2.pdf>.

<sup>3</sup> Id., at vii.

<sup>4</sup> Id., at I-3.

<sup>5</sup> See, "A Look Back... The National Security Act of 1947," Central Intelligence Agency, (Jul. 2008), at: <https://www.cia.gov/news-information/featured-story-archive/2008-featured-story-archive/national-security-act-of-1947.html>.

<sup>6</sup> E.O. 11995 (1976), available at: <http://www.ford.utexas.edu/library/speeches/760110e.htm#SEC.%205>. ; and E.O. 12333 (1981), available at: <http://www.fas.org/irp/offdocs/eo12333.htm>.

<sup>7</sup> Smith-Mundt Act, U.S. Code, Title 22, Chapter 18, Sec. 1461 (1948); at: [http://www.law.cornell.edu/uscode/html/uscode22/usc\\_sec\\_22\\_00001461----000-.html](http://www.law.cornell.edu/uscode/html/uscode22/usc_sec_22_00001461----000-.html) .

<sup>8</sup> See, LTC Susan L. Gough, "The Evolution of Strategic Influence," U.S. Army War College, (Apr. 2003), at: <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB177/Info%20Operations%20Roadmap%20Gough.pdf>; and Kristen Adair and Thomas Blanton, "Rumsfeld's Roadmap to Propaganda," National Security Archive (Jan. 2006), at: <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB177/index.htm>.

banned propaganda efforts directed at U.S. audiences with appropriations riders. The Consolidated Appropriations Act of 2010 contained two provisions that prohibit the activities described in the *Rolling Stone* article. Section 717 provides that,

No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.<sup>9</sup>

And section 720 provides that,

No part of any appropriation contained in this or any other Act shall be used directly or indirectly, including by private contractor, for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.<sup>10</sup>

Despite these prohibitions, DoD has repeatedly engaged in intelligence collection activities targeting U.S. persons and information operations targeting U.S. audiences since the terrorist attacks of September 11, 2001.<sup>11</sup> Several DoD policy pronouncements that purport to explain legal limits on military intelligence activities appear to have encouraged the collection, retention and dissemination of U.S. person information, and blurred the distinction between public affairs and operations designed to influence, rather than inform the American public, which may explain why such transgressions occur.<sup>12</sup>

DoD announced it will investigate the allegations regarding attempts to improperly influence members of Congress, but Congress must conduct an independent public investigation. It does not matter whether these alleged attempts to influence the members of Congress were

---

<sup>9</sup> P.L. 111-117 (2009), 123 Stat. 3034, available at: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_public\\_laws&docid=f:publ117.111.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_public_laws&docid=f:publ117.111.pdf).

<sup>10</sup> *Id.*

<sup>11</sup> *For information about military spying on Americans, see:* “No Real Threat: The Pentagon’s Secret Database on Peaceful Protest,” American Civil Liberties Union, (2007), at: <http://www.aclu.org/national-security/no-real-threat-pentagons-secret-database-peaceful-protest>; and, Eric Lichtblau and James Risen, “Bush Lets U.S. Spy on Callers Without Warrants,” *NY Times*, (Dec. 16, 2005), at: <http://www.nytimes.com/2005/12/16/politics/16program.html>.

*For information about military propaganda efforts targeting Americans, see:*

David Barstow, “Behind TV Analysts, Pentagon’s Hidden Hand,” *NY Times*, (Apr. 20, 2008), at:

<http://www.nytimes.com/2008/04/20/us/20generals.html>; Jonathan Karl, “The Pentagon’s Propaganda Machine?,” *ABC News*, (Apr. 21, 2008), at: <http://abcnews.go.com/Blotter/story?id=4696120&page=1>.

*See also* Scott Lindlaw, “House panel to probe ‘misinformation’ on Tillman, Lynch.” *Associated Press*, (Apr. 11, 2007) available at:

[http://www.boston.com/news/nation/articles/2007/04/11/house\\_panel\\_to\\_probe\\_misinformation\\_on\\_tillman\\_lynch/](http://www.boston.com/news/nation/articles/2007/04/11/house_panel_to_probe_misinformation_on_tillman_lynch/).

<sup>12</sup> *See*, Memorandum of Lt.Gen. Robert W. Noonan, Subject: Collecting Information on U.S. Persons, (Nov. 5, 2001), available at: <http://www.fas.org/irp/agency/army/uspers.html>; and, Department of Defense Information Operations Roadmap, (Oct. 30, 2003), available at:

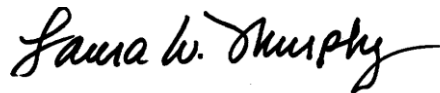
[http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB177/info\\_ops\\_roadmap.pdf](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB177/info_ops_roadmap.pdf).

successful.<sup>13</sup> Any effort to secretly and illegally investigate and manipulate elected officials or improperly influence them is a shocking challenge to democracy itself, and requires a full public examination of the facts.

Moreover, Congress must not view this latest report about improper military intelligence and information operations in isolation. Other recently uncovered programs have been found to target Americans or possibly influence domestic audiences. They include a joint DoD-Federal Bureau of Investigation (FBI) investigation of returning Iraq and Afghanistan war veterans to determine if they pose a “domestic terrorism threat” and an Air Force program to create false identities for internet social media sites.<sup>14</sup>

The National Security Act of 1947 requires the executive branch to keep Congress fully informed regarding all intelligence activities.<sup>15</sup> With such ample evidence of abuse, Congress is obligated to fully investigate all intelligence operations that potentially impact U.S. persons or improperly influence domestic policies with misinformation. Congress must reassert its independence from the military intelligence community and reassure the American public that civilian elected officials retain control over all military and intelligence activities.

Sincerely,



Laura W. Murphy  
Director, Washington Legislative Office



Michael German  
Policy Counsel

---

<sup>13</sup> Rajiv Chandrasekaran, “Military to Investigate Claim that Psyops Team was used to Influence U.S. Senators,” Washington Post, (Feb. 25, 2011), at: <http://www.washingtonpost.com/wp-dyn/content/article/2011/02/24/AR2011022407757.html>.

<sup>14</sup> Cam Simpson and Cary Fields, “Veterans Focus of FBI Extremist Probe,” (Apr. 17, 2009), at: <http://online.wsj.com/article/SB123992665198727459.html>; Alison Diana, “Air Force Seeks Fake Online Social Media Identities,” InformationWeek, (Feb. 22, 2011), at: [http://www.informationweek.com/news/security/client/showArticle.jhtml?articleID=229219056&cid=RSSfeed\\_IWK\\_News](http://www.informationweek.com/news/security/client/showArticle.jhtml?articleID=229219056&cid=RSSfeed_IWK_News).

<sup>15</sup> Pub. L. No. 235, 80 Cong., 61 Stat. 496, 50 U.S.C. ch.15, sec. 413 et. seq., available at: [http://www.law.cornell.edu/uscode/50/usc\\_sec\\_50\\_00000413----000-.html](http://www.law.cornell.edu/uscode/50/usc_sec_50_00000413----000-.html).