

Suspense

DCI/IC-77-0829

MEMORANDUM FOR: Director of Central Intelligence

FROM : John N. McMahon
Acting Deputy to the DCI for the
Intelligence Community

SUBJECT : "Definitions" for Inclusion in Draft Senate Select
Committee Bill

1. Action Requested: Your approval of the set of definitions of intelligence terms as set forth at Tab A as a basis for further discussion in the Community and with Senate Select Committee staffers, looking toward inclusion of definitions such as these in the SSCI "National Intelligence Act of 1977."

2. Background:

a. Senator Huddleston, as Chairman of the Charters and Guidelines Subcommittee of the Senate Select Committee on Intelligence, wrote you on 17 May requesting comments on the 20 "definitions" included in Title I, Section 103 of the "National Intelligence Act of 1977," latest draft of which is dated 25 May.

b. Comments were requested from all NFIB principals. The definitions at Tab A reflect most of the comments received, but there still is need for a review of the revisions.

c. The definitions are being submitted to you at this time, since you indicated an interest in seeing draft papers, and since the definitions at Tab A are not entirely in accord with your 2 June memorandum on "National and Tactical Intelligence Relationship."

(1) The proposed definition of "foreign intelligence," at paragraph (2) in Tab A includes the statement that:

"Foreign intelligence can be categorized as national, departmental or tactical on the basis of the organization that generates it or who uses it, but cannot be so categorized by subject or topic because the same substantive information can be of value at national, departmental and operational levels of the Government."

(2) The above statement is followed by definitions of national, departmental and tactical intelligence, and national, departmental and tactical intelligence activity.

d. At Tab B is a copy of the definitions from the draft SSCI bill of 25 May. The SSCI list of 20 definitions is reduced to a total of 14 in Tab A, of which only six retain the SSCI wording unchanged, two are amendments, and six are complete substitutions that would replace 12 of the proposed SSCI definitions.

e. Submission to you of the definitions at Tab A had been deferred in the hope that comments would be obtained from NFIB principals concerning the statement you included in your 2 June memorandum cited in 'c' above. All of these comments are not at hand, however, so in the interest of expediting a response to Senator Huddleston your reaction to the definitions at Tab A is requested.

John N. McMahon

Attachments:
as stated

APPROVED: _____
Director of Central Intelligence

DISAPPROVED: _____
Director of Central Intelligence

DATE: _____

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PROPOSED CHANGES TO THE DEFINITIONS FOR SECTION 103 OF TITLE I, "NATIONAL INTELLIGENCE ACT OF 1977," BEING DRAFTED BY THE SENATE SELECT COMMITTEE ON INTELLIGENCE:

All references are to the draft of 24 May 1977

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Sec. 103. As used in this title--

(1) The term "Intelligence Community" means the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, any office supervising special reconnaissance activities, and their successors, and such other entities of the Federal Government to the extent that such agencies engage in national foreign intelligence activities as determined by the President, including but not limited to--

(A) the intelligence elements of the military services departments,

(B) the Intelligence Division of the Federal Bureau of Investigation,

(C) the Bureau of Intelligence and Research of the Department of State,

(D) the ~~intelligence-components~~ Office of Intelligence Support of the Department of the Treasury,

(E) the intelligence ~~components~~ element of the Energy Research and Development Administration, and

(F) the intelligence ~~components~~ elements of the Drug Enforcement Administration.

(2) Insert the following as a substitute for (3), (5) and (7)

(2) The term "foreign intelligence" means the product of the collection, processing and analysis of foreign information relating to the national security, to the foreign relations or to the economic interests of the United States by a Government agency that is assigned an intelligence mission. Foreign intelligence can be categorized as national, departmental or tactical either on the basis of the organization that generates it or who uses it, but cannot be so categorized by subject or topic since the same substantive information can be of value at national, departmental and operational levels of the Government.

(A) "National intelligence" means foreign intelligence collected and/or produced under the aegis of the Director of Central Intelligence and intended primarily to be responsive to the needs of the President, the National Security Council and other Federal officials involved in the formulation and execution of national security policy, foreign policy or economic policy.

(B) "Departmental intelligence" means foreign intelligence collected and/or produced under the aegis of the operating head of the department or agency in order to meet the unique requirements of the departmental or agency mission. Collection and/or production of departmental intelligence is accomplished by intelligence organizations the resources for which are justified primarily on the basis of their direct contribution to the departmental mission.

(C) "Tactical intelligence" means that departmental intelligence required by military commanders in the field to maintain the readiness of operating forces for combat operations and to support the planning and conduct of military operations under combat conditions. Tactical intelligence assets are those intelligence entities under the direct operating control of the military commander in the field, whether assigned or attached, existence of which are justified primarily on the basis of their contribution to accomplishment of the operational mission.

(3) Insert the following as a substitute for (2), (4), (6) and (8)

(3) The term "foreign intelligence activities" means the collection, processing, analysis and data base maintenance of foreign information by an intelligence organization and the estimation, production, communication or dissemination of intelligence concerning the characteristics, capabilities or intentions of any foreign country, government, political group or party, military force, international organization, movement or other association of persons, or concerning foreign individuals, that relates to the defense and national security of the United States, its foreign relations, its economy, or related national policies, and all activities which are in support of such collection, processing, data base maintenance, analysis, estimation, production, communication or dissemination of such intelligence.

(A) "National intelligence activity" means any foreign intelligence activity under the operating control of the Director of Central Intelligence or which responds to requirements and priorities established by the Director of Central Intelligence. National intelligence activity means any foreign intelligence activity by an entity of the Intelligence Community, as designated by the President, the primary purpose of which is to collect and process foreign information for national intelligence purposes or to contribute to the production of national intelligence.

(B) "Departmental intelligence activity" means any foreign intelligence activity for which the department secretary or agency head has management responsibility and which responds to requirements and priorities the secretary establishes for departmental intelligence, except that the President may designate an intelligence organization within a department or agency as a national intelligence entity engaged in national intelligence activity, in which case such entity shall be subject to direction and tasking from the Director of Central Intelligence and shall respond to the intelligence requirements and priorities established by the Director of Central Intelligence.

(C) "Tactical intelligence activity" means any foreign intelligence activity by an intelligence organization integral to the military force structure and directly responsive to the operational commander to whose organization it is assigned or attached, except that the President may designate a tactical intelligence organization as a national intelligence entity engaged in national intelligence activity, in which case such entity shall be subject to direction and tasking from the Director of Central Intelligence and shall respond to the intelligence requirements and priorities established by the Director of Central Intelligence.

(4) Insert the following as a substitute for (9)

(4) The term "intelligence related activity" means any activity conducted by an entity of the Government that is not designated as an intelligence organization and is not funded within the budget of an intelligence program but which:

(A) responds to tasking from operational commanders for time-sensitive foreign intelligence;

(B) has a capability to respond to national intelligence requirements and priorities;

(C) trains personnel for intelligence duties;

(D) provides an intelligence reserve for mobilization if required; or

(E) is devoted to research and development on intelligence systems and methodologies.

Specifically excluded from this term is any activity so closely and clearly integrated with a weapon system that its primary function is to provide targeting data for immediate use by the weapon system.

(5) Insert the following as a substitute for (10)

(5) The term "foreign counterintelligence" means that activity devoted to protecting the interests of the United States and its nationals against espionage, technological intelligence collection activities, subversion, sabotage, deception, international terrorist activity, assassination, covert actions and other forms of hostile action that foreign governments, foreign organizations or foreign personnel may undertake against the United States, its facilities or its nationals, or conduct within the United States. Counterintelligence includes the collection, processing, analysis and data base maintenance of foreign counterintelligence information, and the production, communication or dissemination of counterintelligence reports and studies. Foreign counterintelligence also encompasses those activities undertaken by the United States to protect sensitive intelligence sources and methods and information assigned a security classification from detection or disclosure, but the term does not include established personnel, physical or document security programs.

(6) Amend (11) as follows:

(6) The term "special activity" means any ~~intelligence-activity other-than-the-collection,-correlation,-production-and-dissemination of-information-or-analysis-and-related-support-activity-or-a-counter-intelligence-activity~~ operational activity which does not come within the definition of foreign intelligence activity or foreign counter-intelligence activity but which is:

(A) designed to further United States programs and policies abroad,

(B) planned and executed so that the role of the United States Government is not apparent or publicly acknowledged, and

(C) authorized by the President and implemented by an entity of the Intelligence Community, or by any officer, employee, agent or proprietary of such entity, pursuant to the provisions of this title.

(7) Delete (12) which defines "sensitive clandestine collection project" and (13) which defines "exceptionally sensitive clandestine collection project" and substitute the following:

(7) The term "sensitive intelligence project" means:

(A) a clandestine intelligence collection activity involving human resources, conducted by or on behalf of an entity of the Intelligence Community or any officer, employee, agent or proprietary organization of such entity, which if discovered or revealed, would be likely to be seriously detrimental to the interests of the United States; or

(B) a project to collect foreign intelligence information which because of the nature of the activity involved or the area of operation, coupled with its identifiability as being of United States origin, poses an assessable risk of foreign political or military reaction which would be seriously detrimental to the interests of the United States.

A "sensitive intelligence project" shall be so designated by the Director of Central Intelligence if it meets the standards of sensitivity for such projects set forth in regulations promulgated by the Director under the authority of subsection 106(d)(13) of this title.

- (8) Renumber (14) which defines "national of the United States."
- (9) Renumber (15) which defines "Attorney General."
- (10) Renumber (16) which defines "continuing resolution."
- (11) Renumber (17) which defines "committees of the Congress."
- (12) Renumber (18) which defines "departments and agencies."

(13) Delete (19) and substitute the following, which is from the "Foreign Surveillance Act of 1977," (S. 1566 and H.R. 7308), except as underlined:

(13) The term "international terrorism" means activities which--

(A) are violent acts or acts dangerous to human life which would be criminal under the laws of the United States or of any state if committed within its jurisdiction; and

(B) appear to be intended--

(i) to intimidate or coerce the civilian population,

(ii) to influence the policy of a government by intimidation or coercion, or

(iii) to affect the conduct of a government by assassination or kidnapping.

A different version which might be considered is as follows:

(13) The term "international terrorist activity" means the calculated use of violence, or the threat of violence, to attain political goals through instilling fear, through intimidation, or through coercion, and which--

(A) violates a Federal or State criminal statute, or if such activity is conducted outside the United States, would be criminal under the laws of the United States or any state if committed within its jurisdiction;

(B) is intended to reach an audience beyond the immediate victims;

(C) transcends national boundaries in terms of purposes, sponsorship and support, targeting, implementation, nationalities of the victims, or resolution of the incident.

Not included in this term are the organized combat activities of revolutionary or liberation movements, or acts of purely domestic terrorism.

(14) Renumber (20) which defines "sabotage."