

STAT

STAT

Page Denied

Next 1 Page(s) In Document Denied

STAT

DIAL

STAFF DIRECTOR
LARNER J. COLE
ASSOCIATE COLLEGE
ALAN F. COFFEY

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515
Telephone: 202-225-3951

May 3, 1985

PETER W. RODINO, JR., NEW JERSEY, CHAIRMAN
ROBERT W. KASTENMEIER, WISCONSIN
DON EDWARDS, CALIFORNIA
JOHN CONYERS, JR., MICHIGAN
JOHN F. SEIBERLING, OHIO
ROMANO L. MAZZOLI, KENTUCKY
WILLIAM J. HUGHES, NEW JERSEY
SAM B. MALL, JR., TEXAS
MIKE SYNAR, OKLAHOMA
PATRICIA SCHROEDER, COLORADO
DAN GLICKMAN, KANSAS
BARNEY FRANK, MASSACHUSETTS
GEO. W. CROCKETT, JR., MICHIGAN
CHARLES E. SCHUMER, NEW YORK
BRUCE A. MORRISON, CONNECTICUT
EDWARD F. FEIGHAN, OHIO
LAWRENCE J. SMITH, FLORIDA
HOWARD L. BERMAN, CALIFORNIA
FREDERICK C. BOUCHER, VIRGINIA
MARLEY O. STAGGERS, JR., WEST VIRGINIA

CARLOS J. MOORHEAD, CALIFORNIA
HENRY J. HYDE, ILLINOIS
THOMAS N. KINDNESS, OHIO
DAN LUNGREN, CALIFORNIA
F. JAMES SENSENBRENNER, JR., WISCONSIN
BILL MCCOLLUM, FLORIDA
E. CLAY SHAW, JR., FLORIDA
GEORGE W. GEKAS, PENNSYLVANIA
MICHAEL DEWINE, OHIO
WILLIAM E. DANNEMEYER, CALIFORNIA
HANK BROWN, COLORADO
PATRICK L. SWINDALL, GEORGIA
HOWARD COBLE, NORTH CAROLINA

Honorable Lee Hamilton
Chairman
Permanent Select Committee on Intelligence
H-405, The Capitol
Washington, D.C.

Dear Mr. Chairman:

It has been brought to my attention by Congressman Romano Mazzoli that your Committee has under active consideration a legislative proposal granting the President authority to naturalize up to five foreign intelligence sources per year.

It is my understanding that Mr. Mazzoli, who is Chairman of the Subcommittee on Immigration, Refugees, and International Law, has already communicated his views on this provision to you and several other Members of your Committee.

As you may know, existing immigration law already authorizes the admission (as permanent residents) of up to 100 aliens per year if it is determined that such admission "is in the interest of national security or essential to the furtherance of the national intelligence mission."

The proposed legislation would take this one step further and authorize the immediate naturalization of such persons upon their admission for permanent residence. In this regard, it should be noted that the Judiciary Committee has on numerous occasions over the past three decades considered private immigration legislation to waive the physical presence and residency requirements for naturalization for defectors and other cases of CIA interest. In each of these expeditious naturalization cases, the Committee has reviewed each case individually on the merits to determine whether the passage of private legislation was appropriate. I continue to believe that this case-by-case approach is the proper way to proceed.

Therefore, if the aforementioned provision is included in the final version of the Intelligence Authorization bill, it is my intention to request the Speaker for sequential referral of the legislation because it is a matter within the jurisdiction of the Committee on the Judiciary.

Sincerely,



PETER W. RODINO, JR.
Chairman

PWR:sei

AMENDMENT OFFERED BY MR. STUMP
TO THE INTELLIGENCE AUTHORIZATION ACT FOR FY 1986

(Citizenship for Certain Intelligence Sources)

Attachments: TAB A — Text of amendment offered by Mr. Stump
TAB B — Congressional Record excerpt explaining amendment

Summary

The amendment permits the President, in limited circumstances, to naturalize up to five foreign intelligence sources per fiscal year who have contributed substantially to the security of the United States.

Currently, under the CIA Act of 1949, the Director of Central Intelligence, the Attorney General and the Commission of Immigration, acting jointly, can admit foreign intelligence sources to permanent U.S. residence, notwithstanding the immigration laws. The amendment grants a special authority for citizenship similar to the special authority for permanent U.S. residence, although with stricter safeguards.

The amendment will enhance the ability of U.S. intelligence to attract well-motivated, highly-placed individuals abroad to secret intelligence service for the U.S. by permitting them, in certain circumstances, to become U.S. citizens expeditiously at the end of their service.

To offer the prospect of citizenship to attract the best sources, the U.S. needs an expeditious, secure and reliable statutory process to naturalize them at the end of their secret service. Neither the existing naturalization laws nor the congressional private bill procedure provides such an expeditious, secure and reliable process. The amendment does.

The amendment contains substantial safeguards to ensure careful use of the authority it confers:

- The Attorney General must determine that the source meets the good character requirement applicable to candidates for naturalization under the general naturalization law (see 8 U.S.C. 1427(a)(3)).
- The President personally must evaluate the source's intelligence service and find that it constitutes a substantial contribution to U.S. security.
- The President personally must exercise the naturalization authority.
- The President must notify the intelligence committees of Congress each time he uses the authority.
- The authority may not be used in any fiscal year to naturalize more than five persons.

Enactment of the amendment will improve the ability of U.S. intelligence to collect critically needed foreign intelligence and will properly reward with citizenship the nation's most highly valuable, deserving intelligence sources.

AMENDMENT OFFERED BY MR. STUMP
TO THE INTELLIGENCE AUTHORIZATION ACT FOR FY 1986
(Limited Special Naturalization Authority for Certain Intelligence Sources)

* * *

1 LIMITED SPECIAL NATURALIZATION AUTHORITY

2 SEC. ____ . Section 7 of the Central Intelligence Agency
3 Act of 1949, as amended (50 U.S.C. 403h) is amended by
4 inserting "(a)" after "SEC. 7." and adding at the end thereof
5 the following new subsection—

6 "(b)(1) The President may, notwithstanding any other
7 law, naturalize as a citizen of the United States an alien
8 admitted to the United States for permanent residence pursu-
9 ant to subsection (a) of this section if—

10 "(A) the Attorney General determines and certi-
11 fies to the President that the alien is a person of good
12 moral character, attached to the principles of the Con-
13 stitution of the United States and well disposed to the
14 good order and happiness of the United States, and

15 "(B) the President finds that the foreign intelli-
16 gence activities of the alien on behalf of the United
17 States have contributed substantially to the security of
18 the United States,

19 except that in no case shall the number of aliens naturalized
20 in any fiscal year pursuant to this subsection exceed five.

21 "(2) Prior to naturalization under paragraph (1) of this
22 subsection, an alien to be naturalized under such paragraph
23 shall, before an officer of the executive branch designated for

1 the purpose by the President, take the oath of renunciation of
2 former citizenship and acceptance of allegiance to the United
3 States required of an alien naturalized under other provisions
4 of law.

5 “(3) Notwithstanding any other law, a district court of
6 the United States, upon application of the Attorney General
7 under this subsection, shall, in a manner consistent with the
8 protection of intelligence sources, methods and activities,
9 issue or cause to be issued such documents relating to an
10 alien naturalized by the President under this subsection as
11 are issued relating to an alien naturalized under other provi-
12 sions of law, and such documents relating to an alien natural-
13 ized by the President shall have the same legal effect as doc-
14 uments issued relating to an alien naturalized under other
15 provisions of law.

16 “(4) The President may not delegate the authority
17 granted in paragraph (1) of this subsection, anything in sec-
18 tion 301 of title 3, United States Code, to the contrary not-
19 withstanding.

20 “(5) The President shall notify the Permanent Select
21 Committee on Intelligence of the House of Representatives
22 and the Select Committee on Intelligence of the Senate each
23 time the authority granted in paragraph (1) of this subsection
24 is exercised.”.

* * *

**H.R. 1082 WILL IMPROVE U.S.
HUMAN INTELLIGENCE CAPA-
BILITIES BY FACILITATING
CITIZENSHIP FOR CERTAIN
SOURCES**

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1985

● Mr. STUMP. Mr. Speaker, the ability of the United States to collect intelligence on the intentions of hostile foreign countries depends upon the ability of the Central Intelligence Agency to persuade highly placed individuals in those countries to cooperate with U.S. intelligence. The motivation for such cooperation may vary from individual to individual. However, intelligence sources motivated by their belief in the principles of human freedom, justice, and peace, for which the United States stands in the world, have often proved to be of the greatest intelligence value. These individuals cooperate with U.S. intelligence because they wish to contribute to the advancement of high principles of freedom and often because they hope, at the end of their U.S. intelligence service abroad, to be welcomed into the community of freedom we enjoy in the United States. Title VII of H.R. 1082 will enhance the ability of U.S. intelligence to secure the cooperation of these well-motivated, highly placed individuals abroad by permitting them, in certain circumstances, to become U.S. citizens expeditiously at the end of their intelligence service.

**1. UNIQUE RELATIONSHIP OF INTELLIGENCE
SOURCES TO THE U.S. GOVERNMENT**

To carry out its foreign intelligence collection mission, the Central Intelligence Agency depends upon human sources abroad for information and operational assistance. To secure the cooperation of a well-placed individual who can provide the needed information or assistance, the CIA officer who will work with that source must establish with him a secret relationship with three critical elements: secrecy, trust, and mutual benefit.

Secrecy is the first critical element in the relationship between the CIA and a foreign intelligence source. A potential source will cooperate with the CIA only if he believes that the secrecy of his relationship with the CIA will be protected. If he believes that the CIA cannot provide an ironclad guarantee of secrecy and deliver on that guarantee, he will not cooperate. If such secrecy is breached, the source loses his freedom, and in many parts of the world, his life. The Congress has in recent years enhanced considerably the ability of the CIA to deliver on its guarantee of secrecy in human

intelligence activities by enacting the Intelligence Identities Protection Act, which protects the identities of intelligence sources, and the CIA Information Act, which excludes CIA operational files from the reach of the Freedom of Information Act.

Trust is the second critical element in the relationship between the CIA and an intelligence source. The intelligence source must be confident that the CIA as an institution of the U.S. Government, and the particular CIA officers with whom he works, will deal with him honestly and fairly, will take care of his interests in the event of mishap, and will honor fully whatever promises are made to him. The CIA takes great care to maintain such trust. Breaches of this trust would alienate foreign intelligence sources, ending their cooperation with U.S. intelligence.

Mutual benefit is the third critical element in the relationship between the CIA and the intelligence source. Neither U.S. intelligence nor an intelligence source will incur the risk which inheres in a clandestine intelligence relationship unless the product of the relationship is judged by both parties to be worth the risk. The U.S. Government benefits from the secret information and operational assistance the intelligence source provides. The intelligence source's benefits vary, sometimes including compensation and sometimes not. Among the most dedicated and effective intelligence sources, however, are those who only want a chance to contribute to the advancement of justice and freedom for which the United States stands and a chance to go to the United States at the end of their intelligence service, to participate in the free society which their secret service has helped to maintain.

**2. ADMISSION OF INTELLIGENCE SOURCES TO THE
UNITED STATES AT THE END OF THEIR SERVICE**

Under section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403b), whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that entry of an alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, the alien is admitted to the United States for permanent residence without regard to U.S. immigration laws. No more than 100 persons may be admitted under this special authority in any fiscal year. This special provision, enacted 36 years ago, provided

clear authority to bring U.S. foreign intelligence sources into the United States for permanent residence at the end of their intelligence service. Without such a clear statute that applies notwithstanding any other laws, the CIA would be unable to promise a potential intelligence source that at the end of his secret intelligence service the United States will reward him and protect him with permanent U.S. residence.

The ability of the CIA—with the approval of the Attorney General and the Commissioner of Immigration—to offer permanent residence in the United States at the end of service contributes substantially to the CIA's ability to persuade highly-placed individuals abroad to cooperate with U.S. intelligence. A statute which would permit U.S. intelligence to offer to a key potential intelligence source U.S. citizenship at the end of his service would contribute further to the CIA's ability to persuade key personnel of hostile foreign governments to cooperate with U.S. intelligence.

3. INABILITY TO OFFER CITIZENSHIP TO INTELLIGENCE SOURCES AT THE END OF THEIR SERVICE

Although section 7 of the CIA Act provides extraordinary authority to admit foreign intelligence sources to the United States for permanent residence, no similar statute exists which contains extraordinary authority with respect to citizenship for such persons. Thus, U.S. intelligence cannot offer citizenship to the best potential sources, because no statute exists which provides a clear guarantee that the United States can deliver on that offer after the source performs his secret intelligence service. Regardless of the value to the United States of a source's secret intelligence service, to become a citizen after he has become a permanent U.S. resident, he must qualify under the generally applicable naturalization laws. The requirement to comply with the general naturalization laws fails to take account of the critical contribution of certain intelligence sources to the national security and also fails to take account that, in certain cases, a former intelligence source may be handicapped in qualifying for citizenship solely because of his intelligence service.

Well-placed individuals of good character in hostile countries who risk their lives and livelihood for years to provide vital intelligence to the United States, because they believe in the principles for which America stands, have proved their fitness for citizenship by that service. Risking one's life

and livelihood to assist a nation's highest demonstration of allegiance to that nation. A foreign intelligence source whose actions contribute substantially to the security of the United States merits special consideration for citizenship.

The citizenship laws of our ally to the north, Canada, provide a clear example of a national determination that certain service of extraordinary value may merit an expedited method for conferring citizenship on the individual performing the service. Thus, section 5(4) of Canada's Citizenship Act (1976), other provisions of which contain detailed and restrictive provisions for becoming a citizen, provides:

In order . . . to reward services of an exceptional value to Canada, and notwithstanding any other provision of this Act, the Governor in Council may, in his discretion, direct the Minister to grant citizenship to any person and, where such a direction is made, the Minister shall forthwith grant citizenship to the person named in the direction.

The Canadian statute provides a useful model for special citizenship consideration based on extraordinarily valuable service to the Nation.

In the absence of a provision for special consideration for U.S. citizenship of America's best intelligence sources, they must continue to qualify for citizenship under the general naturalization laws. In some cases, however, the very activity the source undertook to assist U.S. intelligence may place the source at a disadvantage in qualifying for citizenship. Thus, for example, a source who—at the urging of U.S. intelligence—remained an active member of the Communist Party of a foreign nation to report to U.S. intelligence on the party's activities, suffers due to his cooperation with U.S. intelligence when he comes to the United States at the end of his service. The time spent in service to the United States as an intelligence source does not count in the source's favor in satisfying certain waiting periods imposed by the general naturalization laws. Having been a member of a Communist Party, he must wait 10 years before becoming eligible for citizenship, since the section 313 of the Immigration and Nationality Act (8 U.S.C. 1424) requires that 10 years have elapsed since an individual seeking citizenship has terminated membership in a Communist Party. Thus, under current U.S. law, foreign intelligence sources who have contributed substantially to U.S. security not only receive no special treatment in the citizenship process, but may even be actively handicapped in that process because of their service.

tionality Act imposes upon intelligence sources seeking citizenship, that act imposes procedural handicaps as well. Section 316(a) of the Immigration and Nationality Act (8 U.S.C. 1427) requires that an individual seeking citizenship file a petition for naturalization in the court with jurisdiction over his place of residence. This requirement would result in a publicly available court record revealing that the source is in the United States and revealing where he has settled in the United States. The availability of such information could constitute a threat to the safety of the source, whose former country may seek to do him harm.

In some situations, such as that of Soviet MIG pilot Viktor Belenko, the executive branch has secured the citizenship consideration a source deserves by seeking a private bill in the Congress. The private bill procedure, however, lacks sufficient security to serve as a permanent solution to the problem of citizenship for key sources. The private bill procedure reveals that a source is in the United States, since the private bill must include the source's name. Moreover, the private bill procedure requires rather general dissemination in the legislative branch of information, much of which will be classified, concerning the merits of the private bill. Most importantly, the outcome of the private bill procedure is not predictable; the press or other legislative business or the timing of the bill may result in its failure to pass for reasons wholly unrelated to the merits of the private bill. The hit-or-miss nature of the private bill procedure prevents U.S. intelligence from offering the prospect of citizenship to attract key foreign sources to service for the United States, because U.S. intelligence cannot offer citizenship unless it is absolutely sure it can deliver on its offer, and it cannot be sure with the private bill procedure.

Existing U.S. naturalization statutes do not take proper account of the special situation of the most valuable U.S. foreign intelligence sources. Legislation clearly establishing a speedy, secure, and reliable procedure for citizenship for such sources would correct this deficiency, enabling U.S. intelligence in appropriate circumstances to offer citizenship to key potential intelligence sources to attract them to service for the United States and to reward those sources who have contributed substantially to the security of the United States.

Title VII of H.R. 1082, entitled "Foreign Intelligence Source Improvement Act," provides the speedy, secure, and reliable procedure for citizenship for key sources that U.S. intelligence needs. Section 702 in title V of the bill would permit the President personally, in certain circumstances, to naturalize intelligence sources admitted to permanent U.S. residence under section 7 of the CIA Act of 1949. Section 702 provides:

Sec. 702. Section 7 of the Central Intelligence Agency Act of 1949, as amended (8 U.S.C. 403h) is amended by inserting "(c) after "Sec. 7." and adding at the end of the following new subsection—

"(b)(1) The President may, notwithstanding any other law, naturalize as a citizen of the United States an alien admitted to the United States for permanent residence pursuant to subsection (a) of this section if—

"(A) the Attorney General determines and certifies to the President that the alien is a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

"(B) the President finds that the foreign intelligence activities of the alien on behalf of the United States have contributed substantially to the security of the United States,

except that in no case shall the number of aliens naturalized in any fiscal year pursuant to this subsection exceed five.

"(2) Prior to naturalization under paragraph (1) of this subsection, an alien to be naturalized under such paragraph shall before an officer of the executive branch designated for the purpose by the President take the oath of renunciation of former citizenship and acceptance of allegiance to the United States required of an alien naturalized under other provisions of law.

"(3) Notwithstanding any other law, a district court of the United States, upon application of the Attorney General under this subsection, shall, in a manner consistent with the protection of intelligence sources, methods and activities, issue a cause to be issued such documents relating to an alien naturalized by the President under this subsection as are issued relating to an alien naturalized under other provisions of law, and such documents relating to an alien naturalized by the President shall have the same legal effect as documents issued relating to an alien naturalized under other provisions of law.

"(4) The President may not delegate the authority granted in paragraph (1) of this subsection, anything in section 301 of title 5, United States Code, to the contrary notwithstanding.

107 The President shall notify the permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate each time the authority granted in paragraph (1) of this subsection is exercised."

Section 702 of H.R. 1082 provides for naturalization of an intelligence source admitted to permanent U.S. residence under the CIA Act if, first, the Attorney General determines that the source is of good character and, second, the President finds that the source's foreign intelligence activities contributed substantially to the security of the United States. To ensure application of the provision in the manner intended, section 702 carefully circumscribes the unusual authority it confers to naturalize individuals whose intelligence activities have made an extraordinary contribution to U.S. security. Thus, the individual to be naturalized must, to the satisfaction of the Attorney General, meet the good character requirement applicable to candidates for naturalization under other laws (see 8 U.S.C. 1427(a)(3)); the President personally must evaluate the individual's intelligence activity and find that it constitutes a substantial contribution to U.S. security; the President personally must exercise the naturalization authority and may do so only with respect to not more than five individuals per fiscal year; and the President must notify the intelligence committees of the Congress each time he uses the authority.

Section 702 provides a clear and reliable statutory procedure for naturalization of individuals whose valuable secret intelligence service for the United States merits citizenship. The reliability of the procedure will enable U.S. intelligence to offer citizenship in appropriate circumstances to key potential intelligence sources. Enactment of section 702 will enhance the ability of the CIA to collect critically needed foreign intelligence and will properly reward with citizenship the Nation's most highly valuable, deserving intelligence sources.●