

THE FOLLOWING DOCUMENTS
ARE ATTACHED:
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OCA 3032 89

OCA 3170 89

SUBJECT:

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14 FBI INVESTIGATIONS OF ESPIONAGE BY PERSONS EM-
15 PLOYED BY OR ASSIGNED TO UNITED STATES DIPLO-
16 MATIC MISSIONS ABROAD

17 SEC. 603. The FBI shall be responsible for the conduct
18 of all investigations of violations of the espionage laws of the
19 United States by persons employed by or assigned to United
20 States diplomatic missions abroad. All departments and agen-
21 cies shall report immediately to the FBI any information in-
22 dicating such a violation. Other departments and agencies
23 shall provide appropriate assistance to the FBI in the con-
24 duct of such investigations. Nothing in this provision shall be
25 construed as establishing a defense to any criminal, civil, or
26 administrative action.

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should be accomplished by the National Security Council based upon a determination that such increases are essential to the functioning of the U.S. Mission in the Soviet Union.

Further, subsection (b) provides that no such increases be approved without a concomitant commitment to provide additional resources to the FBI sufficient to cope with the increases in permanent staff positions. There must be a realization that increases in permanent positions at the Soviet Mission to the United States inevitably impact upon the responsibilities of the FBI. Without providing the FBI with additional resources to carry out such responsibilities, U.S. security is put at further risk.

The Committee requests that determinations and action under this provision be reported to the Congress in the annual reports to the Intelligence Committees required by Section 601(b) of the Intelligence Authorization Act for FY 1985.

→ Section 603 provides that the FBI shall be responsible for the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to United States diplomatic missions abroad who are themselves subject to U.S. law. This would include the employees of government contractors within the United States who are accredited to such missions. The FBI has jurisdiction to conduct such investigations of espionage under Title 18, United States Code, subject to the authority of the Attorney General. Section 603 is intended to ensure that the FBI exercises that jurisdiction in all such cases concerning personnel at U.S. diplomatic missions abroad, regardless of the concurrent jurisdiction that other agencies may have.

For example, the FBI shares jurisdiction over espionage cases with the military services which have concurrent authority to investigate violations of the Uniform Code of Military Justice (Title 10, United States Code, Chapter 47). Interagency agreements allow the military services to conduct such investigations of persons under their jurisdiction. The Committee believes these arrangements are inappropriate for cases that arise at United States diplomatic missions abroad and that the FBI should be responsible for the investigation of all cases of espionage involving military personnel at such civilian installations.

Other departments and agencies also have concurrent authority to conduct security investigations of their own personnel and contractors who may be located at overseas posts. While it is not the intent of the Committee that the FBI take over responsibility for this type of investigation, it is the Committee's intent that, if such investigations should develop information indicating possible espionage involving foreign interests, the matter be referred to the FBI.

Section 603 provides that all departments and agencies shall report immediately to the FBI any information indicating a violation of the espionage laws of the United States by persons employed by or assigned to U.S. diplomatic missions. This requires reporting to the FBI the facts or circumstances which indicate a violation. For example, if this provision had been in effect in the Marine Security Guard espionage cases, initial indications of espionage would have been reported promptly to the FBI, rather than just to the State Department or the Navy or other agencies without criminal investigative jurisdiction (e.g., CIA). The State Depart-

ment would have immediately advised the FBI of the report from the Regional Security Officer at the Moscow Embassy of the conduct and statements indicating possible espionage, and the CIA would have immediately advised the FBI of the report from U.S. embassy officials in Vienna of the statements indicating espionage.

The FBI should provide guidance to the relevant departments and agencies with regard to the types of facts or circumstances which should be reported as indicating espionage violations.

Finally, Section 603 states that other departments and agencies shall provide appropriate assistance to the FBI in the conduct of such investigations. Thus, the State Department, the military services, the CIA and other U.S. intelligence agencies are expected to provide personnel and other resources to assist the FBI in such investigations, consistent with their respective authorities and responsibilities. For example, in a case involving U.S. military personnel subject to the Uniform Code of Military Justice, it would be appropriate for the FBI to form a team that includes investigators from the relevant military service who are familiar with military legal procedures. In addition, CIA assistance to such FBI investigations abroad would be appropriate to the extent consistent with the statutory restrictions on CIA law enforcement powers.

The Committee intends that all investigative activity under this provision shall be directed by the FBI subject to the authority of the Attorney General and any guidelines or policies that the Attorney General may establish for such investigations, in consultation with the relevant departments and agencies, and with due regard for the CIA's responsibility under Executive Order 12333 to coordinate counterintelligence activities abroad and the DCI's responsibility under the National Security Act of 1947 to protect intelligence sources and methods from unauthorized disclosure.

This provision is intended solely to regulate interagency relationships, and shall not be construed to establish a defense in any matter based upon actions taken by the Department of Defense or any other department or agency with authority to investigate and dispose of allegations of espionage.

TITLE VII—GENERAL PROVISIONS

Section 701 authorizes the increase of appropriations authorized by the Act for salary, pay, retirement and other benefits for federal employees as necessary for increase in such benefits authorized by law.

COMMITTEE ACTION

On July 13, 1989, the Select Committee on Intelligence approved the bill and ordered it favorably reported.

EVALUATION OF REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee finds no regulatory impact will be incurred in implementing the provisions of this legislation.

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25 August 1989
OCA: 89-3032

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MEMORANDUM FOR: The Director
FROM: Deputy Director of Congressional Affairs
SUBJECT: Lunch with Senator Cohen and Jim Dykstra

1. At [redacted] suggestion, we are arranging an informal session with Senator Cohen to discuss the provision in the Senate version of the Intelligence Authorization Bill concerning FBI investigation of possible espionage activity by U.S. personnel assigned to foreign posts, and related CI issues involving FBI-CIA interaction.

2. Senator Cohen and Intelligence Committee Minority Staff Director Jim Dykstra will be having lunch with [redacted] and me in your Dining Room on Thursday, 7 September at 12:00. Would you like to join the luncheon or meet with the Senator either before or afterwards?



I would like to join the luncheon

I would like to meet with him before or after the luncheon

But will have to have by 12:40

STAT

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DD/OCA [redacted] (25 Aug 1989)



B-808-IR
CR: A-104-IR

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Lunch with Senator Cohen and Jim Dykstra

FROM:

Deputy Director of Congressional Affairs

EXTENSION

NO.

OCA 89-3032

DATE

25 August 1989

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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ADDO/CI	25 AUG 1989			
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3. DDO			30	
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5. Executive Registry	30 AUG 1989			
6.				
7. Director of Central Intelligence	31 Aug 9/5			WMM
8.				
9. Return to Deputy Director of Congressional Affairs				
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1 to 3: Dick, hope you will help out.

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