

4 March 1975

A BILL

To amend the National Security Act of 1947, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 102 of the National Security Act of 1947, as amended, (50 U.S.C.A. 403) is further amended by adding the following new subsection (g):

(g) In the interests of the security of the foreign intelligence activities of the United States, and in order further to implement the proviso of section 102(d)(3) of this Act that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure--

(1) Whoever, being or having been in duly authorized possession or control of information relating to intelligence sources and methods, or whoever, being or having been an officer or employee of the United States, or member of the Armed Services of the United States, or a contractor of the United States Government,

or an employee of a contractor of the United States Government, and in the course of such relationship becomes possessed of such information, knowingly communicates it to a person not authorized to receive it shall be fined not more than \$5,000 or imprisoned not more than five years, or both;

(2) For the purposes of this subsection, the term "information relating to intelligence sources and methods" means sensitive information concerning--

(A) methods of collecting foreign intelligence;

(B) sources of foreign intelligence, whether human, technical, or other; or

(C) methods and techniques of analysis and evaluation of foreign intelligence which, in the interests of the security of the foreign intelligence activities of the United States, has been specifically designated for limited or restricted dissemination or distribution, pursuant to authority granted by law or Directive of the National Security Council, by a department or agency of the United States Government which

is expressly authorized by law or by the President to engage in intelligence activities for the United States;

(3) A person who is not authorized to receive information relating to intelligence sources and methods is not subject to prosecution as an accomplice within the meaning of sections 2 and 3 of Title 18, United States Code, or to prosecution for conspiracy to commit an offense under this subsection, unless he became possessed of such information in the course of a relationship with the United States Government as described in paragraph (1); Provided, however, That the immunity conferred by this paragraph does not preclude the indictment or conviction for conspiracy of any person who is subject to prosecution under paragraph (1) of this subsection.

(4) No prosecution shall be instituted under this subsection unless, prior to the return of the indictment or the filing of the information, the Attorney General and the Director of Central Intelligence jointly certify to the court that at the time of the offense--

(A) the information was lawfully designated for limited or restricted dissemination

or distribution within the meaning of paragraph (2) of this subsection;

(B) the information had not been placed in the public domain by the United States Government; and

(C) there existed a review procedure through which the defendant could obtain review, by the Government agency described in paragraph (2) of this subsection, of the necessity of continuing the designation described in paragraph (2) of this subsection in the interests of the security of the foreign intelligence activities of the United States.

(5) It is an affirmative defense to a prosecution under this subsection that--

(A) the information was communicated only to a regularly constituted subcommittee, committee or joint committee of Congress, pursuant to lawful demand, or

(B) the person communicating the information did not know or have reason to

know that the information had been specifically designated as described in paragraph (2) of this subsection.

(6) Whenever in the judgment of the Director of Central Intelligence any person is about to engage in any acts or practices which will constitute a violation of this subsection, the Attorney General, on behalf of the United States, may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing that such person is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(7) In any judicial proceedings under this subsection, the court --

(A) may review, in camera, information relating to intelligence sources and methods designated for limited or restricted dissemination or distribution within the meaning of paragraph (2) of this subsection for the purpose of determining if such designation was lawful and the court shall not invalidate the designation unless it determines that the designation

was arbitrary and capricious. The determination of the validity of such designation under the circumstances is a question of law;

(B) in any in camera review, may, in its discretion, require the presence of all parties or their attorneys and production of a record of the proceedings;

(C) shall, at the close of the in camera review, enter in the record an order pursuant to its findings and determination.