

~~ADMINISTRATIVE - INTERNAL USE ONLY~~

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Category: 7 - Management

OPR: OCA

Title: AR 7-2 REPORTING OF INTELLIGENCE ACTIVITIES TO CONGRESS

2. REPORTING OF INTELLIGENCE ACTIVITIES TO CONGRESS

SYNOPSIS. This regulation provides guidelines on the obligation to notify the Intelligence Committees of CIA intelligence activities pursuant to the National Security Act of 1947, as amended.

a. AUTHORITY. These guidelines are issued pursuant to sections 501 and 502 of the National Security Act of 1947, as amended (the "Act"), to assist the Director of the Central Intelligence Agency (D/CIA) in keeping the Congressional intelligence committees fully and currently informed of all intelligence activities, including "significant anticipated intelligence activities" and "significant intelligence failures," and to assist the President in fulfilling the obligation to report illegal intelligence activities to the Congressional intelligence committees.

b. GENERAL

- (1) The DCI shall carry out his or her statutory obligations to notify the Congressional intelligence committees in the manner specified in these guidelines.
- (2) These guidelines establish a means of identifying matters which the Office of General Counsel (OGC) and the Office of Congressional Affairs (OCA) must consider reporting to the Congressional intelligence committees under sections 501 and 502 of the Act; they do not constitute a comprehensive list of what must actually be reported to those committees.
- (3) These guidelines are intended to serve as the sole authoritative guidance on what may constitute a "significant anticipated intelligence activity" or a "significant intelligence failure" under the Act. They also provide authoritative guidance concerning the obligation to keep the intelligence committees fully and currently informed of all intelligence activities and to report illegal intelligence activities.

c. INITIAL REPORTING AND REVIEW PROCEDURES

- (1) All Deputy Directors and Heads of Independent Offices have a continuing responsibility to ensure that every proposed or ongoing intelligence activity which could fall under these guidelines is promptly reported by their respective components to OCA either directly or through OGC as outlined below.
- (2) An Agency component may satisfy its Congressional reporting responsibilities by referring a matter directly to OCA, rather than through OGC, if the matter is not considered a significant anticipated intelligence activity, a significant intelligence failure, or an illegal intelligence activity under these guidelines. Matters other than these three specific categories will normally involve notifications pursuant to the requirement to keep the intelligence committees fully and currently informed of all intelligence activities.
- (3) All matters considered a significant anticipated intelligence activity, a significant intelligence failure or an illegal intelligence activity must be reported to OCA only through OGC. In addition, as a general rule, Deputy Directors and Heads of Independent Offices will be expected to refer to OGC for consideration any proposed intelligence activity or failed intelligence activity that is, in their judgment, extraordinarily sensitive, unprecedented, or highly unusual in nature.
- (4) OGC shall review all such submissions and is responsible for determining whether, as a matter of law, any matter submitted qualifies as a significant anticipated intelligence activity, a significant intelligence failure, an illegal intelligence activity, or is otherwise reportable under the Act.
- (5) OGC shall report the matters it has determined are reportable under these guidelines, together with the materials on which each such determination is based, to OCA.
- (6) OCA shall report matters OGC has determined to be reportable. In addition, OCA shall review the materials OGC forwards with its reportability determinations. In consultation with OGC and the affected Agency component, OCA will determine whether any additional matters reflected in those materials should, for policy reasons under the prevailing circumstances, be notified to the Congressional intelligence committees pursuant to these guidelines. OCA shall report all such matters, including all pertinent details, to the Congressional intelligence committees in a manner consistent with the DCIs obligation to protect sensitive intelligence sources and methods or other exceptionally sensitive matters from unauthorized disclosure.
- (7) Prior to notifying the Congressional intelligence committees, or in exigent circumstances promptly thereafter, OCA shall ensure that the DCI, the Deputy Director of the Central Intelligence Agency, and the Executive Director are made aware of all such reportable activities.

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- f. NOTIFICATION OF ILLEGAL INTELLIGENCE ACTIVITIES.** To assist the President in meeting the obligation to report illegal intelligence activities to the Congressional intelligence committees pursuant to section 501 of the Act, the D/CIA is responsible for reporting CIA activities involving probable illegality. Internal reports on CIA activities involving potential illegality should be made in the manner outlined in paragraph c, above. OGC will apply the following guidelines in determining whether, how, and when to report a CIA activity involving possible illegality to the Congressional intelligence committees:

- (1) Any intelligence activity believed to be a probable violation of the U.S. Constitution, a U.S. statute, or an Executive order (including Executive Order 12333 and its implementing procedures) will be considered an "illegal intelligence activity" which will be reported promptly to the Congressional intelligence committees; and
- (2) A potentially illegal intelligence activity need not be reported to the Congressional intelligence committees until a preliminary internal review has confirmed that a probable violation of law (as described in paragraph f(1) above), has occurred.

g. OBLIGATION TO KEEP CONGRESSIONAL INTELLIGENCE COMMITTEES FULLY AND CURRENTLY INFORMED

- (1) The CIA will seek scrupulously to meet the obligation to keep the Congressional intelligence committees fully and currently informed of all intelligence activities beyond and apart from activities otherwise reportable under the above guidelines. This obligation requires, at a minimum, that CIA keep the Congressional intelligence committees informed of all major intelligence policies and activities on a timely basis, and that CIA provide the information requested by those committees in order to conduct their business.
- (2) Specific circumstances requiring reporting of CIA intelligence activities, which are not otherwise reportable under these guidelines, to the Congressional intelligence committees under the "fully and currently informed" standard fall into three general categories:
 - (a) Particular intelligence activities or categories of activities as to which either of the Congressional intelligence committees has expressed a continuing interest (for example, potentially serious violations of U.S. criminal law by Agency employees, sources, or contacts);
 - (b) Information relating to the continuation of intelligence activities or the resolution of matters previously reported under these guidelines; and
 - (c) Particular intelligence activities which are not otherwise reportable under these guidelines, but which are, for whatever reason, expected to appear in the public media other than as a result of official dissemination by CIAs Public Affairs Staff.
- (3) These provisions on the obligation to keep the Congressional intelligence committees fully and currently informed of all intelligence activities are intended to promote compliance with sections 501 and 502 of the Act. They should not be understood to limit, derogate from, or in any other way affect compliance with the reporting obligations contained in any other statutory provisions applicable to CIA.

h. INTERPRETATION

- (1) **Responsibility for Interpretation.** Questions regarding the proper interpretation or application of these guidelines shall be referred to OGC. OGCs determination shall be

conclusive as to the scope of the D/CIA's legal obligation to keep the Congressional intelligence committees fully and currently informed of all intelligence activities, including notification of significant anticipated intelligence activities, significant intelligence failures, and illegal intelligence activities pursuant to these guidelines.

- (2) **Interpretive Policy.** The obligations outlined in these guidelines must be interpreted broadly in light of the D/CIA's overall statutory obligation to keep the Congressional intelligence committees fully and currently informed of all intelligence activities. Accordingly, when it is unclear under these guidelines whether a particular matter should be referred to OGC for possible reporting to the Congressional intelligence committees, OGC should be consulted.

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