

Summary of Recent Legislation Affecting CIA

The final few months of the 93rd Congress brought action on a number of matters directly affecting CIA. Following is a summary of pertinent congressional action.

COVERT ACTION

1. Hughes and Ryan sections of the Foreign Assistance Act (S. 3394)

Summary: Senator Hughes and Representative Ryan authored similar provisions to restrict covert action by CIA. They passed the authors' respective houses of Congress, and differences were settled in conference. The conference version bars the expenditure of any funds by CIA or any other Government agency for operations in foreign countries, except purely intelligence gathering operations, unless and until the President finds that each such operation is important to the national security, and reports, in a timely fashion, a description of such operation to the appropriate committees of Congress. The "appropriate committees" specifically include the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations. These requirements would be suspended during a war. A House floor amendment offered by Representative Holtzman to change the "important to the National security" language to "vital to the national defense" was defeated by voice vote.

Status: Both houses of Congress gave final approval to the Foreign Aid bill in mid-December, and the President signed the bill on December 30. The restriction on intelligence activities is section 662 of the Foreign Assistance Act of 1961, as amended.

2. Holtzman amendment

Summary: Representative Holtzman introduced a House floor amendment to the 1975 Continuing Appropriations Resolution (H. J. Res. 1131). The amendment, which was prompted by the disclosure of CIA activities in Chile, would have banned the use of any money appropriated under the joint resolution for use by CIA to "destabilize" or undermine any government.

Status: The amendment was defeated 291-108 on 24 September.

3. Abourezk amendment to the Foreign Assistance Act

Summary: Senator Abourezk introduced a floor amendment to the Foreign Assistance Act which would have prohibited funds being used by any U.S. Governmental agency to carry out any activities which would violate or encourage violation of the laws of the U.S. or the country involved. Excluded were activities necessary to national security which were intended solely for intelligence collection.

Status: Defeated on Senate floor on 2 October by a vote of 68-17.

CONGRESSIONAL OVERSIGHT PROPOSALS

The long-standing congressional oversight procedure of reporting on our operations only to the Armed Services and Appropriations Committees of both houses has already been altered by the Foreign Aid bill amendments requiring reporting on covert action to the Foreign Affairs Committees. This

means six committees will now receive reports on covert operations. Other, more far-reaching proposals have been considered by this Congress, and may receive major attention in the 94th Congress. The Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations held hearings on 9 and 10 December regarding CIA oversight. Senator Muskie is Chairman of this Subcommittee. Senators Baker, Mathias, Nelson and Weicker and Dr. Ray Cline were among those testifying. Additional hearings are planned for early in 1975; Senator Muskie has announced that a representative of CIA will be invited to testify at that time.

The bills and resolutions introduced this past Congress and changes in congressional rules concerning CIA oversight reflect three distinct approaches: bills which attempt to supplement (A below), supplant (B below) or study (C below) existing oversight procedures.

A. Supplement

1. Bolling-Hansen House Committee Reform Amendments

Summary: Representative Zablocki introduced a floor amendment providing the Committee on Foreign Affairs a special oversight function of reviewing and studying "intelligence activities relating to foreign policy." The chairman of the Armed Services Intelligence Subcommittee, Representative Nedzi, supported the amendment as conforming to a prior agreement between Dr. Kissinger, Mr. Colby,

and the leadership of the House Armed Services and House Foreign Affairs Committees (Representatives Hebert and Morgan).

Status: The Zablocki amendment passed by voice vote, and the entire Committee Reform Amendments were agreed to by the House on 8 October. These amendments were reinforced by the Foreign Aid amendments. Representative Morgan, Chairman of the Committee on Foreign Affairs, stated his view on the House floor that the intelligence activities section of the Foreign Assistance Act amendments provide a statutory basis for the agreement between Dr. Kissinger, Mr. Colby and Chairmen Hebert and Morgan.

B. Supplant

1. Baker/Weicker bill (S. 4019)

Summary: This bill would create a Senate-House Joint Committee on Intelligence Oversight to supplant Armed Services Committee jurisdiction. The Committee would have 14 members, appointed by the leadership, and the chairmanship would alternate between the House and Senate for each Congress. The jurisdiction of the Committee would extend to CIA, FBI, Secret Service, DIA, NSA, and all other Governmental activities pertaining to intelligence gathering or surveillance of persons. Chiefs of all named departments would be required to keep the Committee fully and currently informed of all activities.

Status: Referred to Committee on Government Operations;
Senators Baker and Weicker supported their bill during the Muskie
hearings.

2. Harrington Resolutions (H. Res. 552 and 1231)

Summary: These alternative resolutions would transfer to
a new House committee jurisdiction over the Central Intelligence Agency
or over the entire intelligence community and all matters relating
to foreign intelligence.

Status: Referred to the House Rules Committee.

3. Hathaway bill (S. Con. Res. 23)

Summary: This resolution would create a Senate/House Joint
Committee which would have oversight of CIA and all other intelligence
and information agencies of the U.S. Government.

Status: Referred to Armed Services Committee.

C. Study

1. Mondale Resolution (S. Res. 404)

Summary: This resolution would create a Senate Select
Committee on Intelligence Policy, composed of five members of
Armed Services, five members of Foreign Relations, and five other
Senators. The Select Committee would be authorized to examine U.S.

intelligence policies and operations, to determine the role of intelligence decisionmaking, and evaluate the impact of intelligence on national security and foreign policy. The Committee is to report to the Senate by June 30, 1975.

Status: Referred to Armed Services Committee.

2. Mathias and Mansfield Resolution (S. Res. 419)

Summary: This resolution would create an eight member (selected at-large) Select Committee to Study Governmental Operations With Respect to Intelligence Activities. The Committee is instructed to study and investigate all domestic and foreign intelligence activities of the U. S. Government and past effect and future role of such activities. The Committee's report is due two years after enactment.

Status: Referred to Committee on Government Operations.

Senator Mathias spoke in favor of this resolution during the December Muskie hearings.

3. Humphrey bill (S. 1547)

Summary: This bill would create a Joint Committee on National Security, consisting of the Speaker, Majority and Minority members of each house, the chairman and ranking Minority members of the Armed Services, Appropriations, Foreign Affairs, Joint Atomic Energy Committees, three other Representatives and three other Senators. Functions of the Committee are to study foreign, domestic,

and military national security policies, study the National Security Council, and study Government classification practices, and report periodically to each House on the Committee's findings.

Status: This bill was transferred from the Armed Services to the Government Operations Committee at Senator Humphrey's request, and was considered during the Muskie hearings in December. Dr. Ray Cline spoke in favor of this proposal.

4. Harrington Resolution (H. Res. 1232)

Summary: This resolution would authorize the House Committee on Foreign Affairs to conduct a complete investigation of CIA.

Status: Referred to Committee on Rules.

FREEDOM OF INFORMATION

The Freedom of Information Act was originally passed in 1966. It was amended this past year to eliminate barriers to public access to Government information. The change most significantly affecting the intelligence community is the new provision authorizing a judge to review in private a contested document to determine if it has been properly classified. In effect, all Agency material is now subject to court review.

If an individual asks a Federal agency for a particular document, one of the approved reasons for denying the request is that the document is classified under Executive Order. An individual who is not satisfied that

the document is classified, can sue in Federal court to force release of the document. Under the Supreme Court decision in the Patsy Mink case, a judge under these circumstances could only determine if the requested document carried a classification. However, the new law overrules this decision and allows the judge to determine if the document is properly classified. If he feels that the Government has not satisfied its burden to prove the document is properly classified, the judge can order an agency to release it.

The legislative history of the Act recognizes that intelligence sources and methods material may not only be classified pursuant to Executive Order, but could also come under a separate exemption, i. e. , information protected from disclosure by statute. Accordingly, the discretionary authority to classify established under the Executive Order would not apply to intelligence sources and methods.

PRIVACY

Congress passed and sent to the President on December 18 landmark privacy legislation. The bill grants to American citizens or permanent resident aliens access to Government records concerning them. It also requires agencies to establish procedures for the protection of such information and the correction of inaccurate information, and restricts dissemination of information without prior approval of the individual. The legislation was a

result of reports that inaccurate information maintained in certain files had damaged individuals' employment prospects, credit rating, etc.

In drafting the legislation, Congress recognized that certain records must be exempted for national security reasons. Accordingly, CIA was provided an exemption from most of the provisions of the law, including granting access to our records, by following standard Federal Government rule-making procedures. The Agency must develop rules governing access to records to be published in the Federal Register. The public will be given thirty days to submit written comments for Agency consideration, before the rules are final.

The provisions of the law applicable to CIA require the Agency to disseminate records on individuals only for specific enumerated purposes, maintain a listing of each disclosure of a record for at least five years, and publish in the Federal Register annually a general description of our systems of personal records. The records of all Federal agencies (including CIA) are subject to inspection by the Privacy Protection Study Commission, a non-regulatory two-year study commission established by the law. The House floor statement on final passage acknowledged that the Commission is not to impair the responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure.

NATIONAL SECURITY ACT AMENDMENTS

Representative Nedzi, Senator Stennis, Senator Proxmire, and others introduced proposals during the 93rd Congress to amend the National Security Act of 1947. Senator Proxmire, with Senator Stennis' acquiescence, won Senate approval of the language of his measure last June as an amendment to the Fiscal 1975 Defense Authorization bill. However, the amendment was rejected in conference on the point of germaneness. Representative Nedzi held hearings on his bill last July, but his CIA subcommittee has not yet reported out a bill. He has expressed interest in the Director's Intelligence Sources and Methods legislation, but is not committed to including it in his bill. Senator Stennis has scheduled hearings for January 15 and 16, and will consider National Security Act amendments in conjunction with hearings on past CIA domestic activities.

Following are the specific proposed amendments to the Act which appear in one or more of the bills which were introduced in the 93rd Congress. Attached are copies of the three major proposals.

1. Insert the word "foreign" before the word "intelligence" in the Act, wherever it refers to the activities authorized to be undertaken by the Central Intelligence Agency (all three bills);
2. Reiterate existing prohibitions against CIA assuming any police or law-enforcement powers, or internal-security functions (all three bills);
3. Enumerate permissible activities for the CIA in the United States:

(b) Conduct personnel investigations of employees and applicants, and others with access to CIA information;

(c) Provide information resulting from foreign intelligence activities to other appropriate agencies and departments;

(d) Carry on within the United States activities necessary to support its foreign intelligence responsibilities;

All three bills include (a), (b), and (c), but only the Nedzi and Stennis bills include item (d);

4. Require the CIA to report to Congress on all activities undertaken pursuant to section 102(d)(5) of the National Security Act;

5. Require the Director to develop plans, policies, and regulations in support of the present statutory requirement to protect intelligence sources and methods from unauthorized disclosure, and report to the Attorney General for appropriate action any violation of such plans, policies, or regulations. This requirement shall not be construed to authorize CIA to engaged in expressly prohibited domestic activity (no police, subpoena, or law-enforcement powers, or internal-security functions), (Nedzi and Stennis bills only);

6. Prohibit CIA from participating, directly or indirectly, in any illegal activity within the United States (Proxmire bill only);

7. Prohibit transactions between the Agency and former employees, except for purely official matters (Nedzi bill only).