

C. H.R. 6051 -- To Prevent and Establish Corrective Mechanisms for "Abuses of Power" by U.S. Intelligence Agencies

1. Introduced 5 April 1977 by Representative Herman Badillo (D., N.Y.) and 13 others.
2. Referred to Judiciary, Banking, Armed Services and Government Operations.
3. Entitled the "Federal Intelligence Agencies Control Act of 1977."
4. Title I encompasses domestic intelligence activities.
  - a. The Government is prohibited from engaging in "political surveillance" (basically, anything related to First Amendment rights); "preventive action" (harassment, false information, provocation, etc.) also is prohibited.
  - b. "Selective" investigations and prosecutions are prohibited.
  - c. The FBI is renamed the Federal Bureau of Criminal Investigation and its jurisdiction over allowable investigative procedures strictly delimited. The bill would establish detailed investigative review procedures and limit the Director to a single six-year term.
  - d. All responsibility for Government background investigations now conducted by the FBI would be transferred to the Civil Service Commission. FBCI employees would be in the competitive service.
  - e. The Bureau's budget would be published and GAO would have annual audit responsibilities.
  - f. "Agent of a foreign power" is narrowly defined to include only officers or employees of foreign powers.
  - g. Both civil remedies and criminal penalties are provided.
5. Title II covers prohibitions and limitations on investigative procedures.
  - a. Electronic surveillance is prohibited.
  - b. Restricts undercover activities involving groups engaged in "First Amendment activity."

c. Government access to and review of credit or tax records and other material would be severely restricted, and the bill would allow mail covers only in very limited circumstances by the Federal Bureau of Criminal Investigation.

d. Both civil remedies and criminal penalties are prescribed for violations.

6. Title III encompasses "Foreign Intelligence Activities."

a. The CIA would be redesignated the "Foreign Information Service" and the DCI would become the Director of the FIS.

b. Except in time of war, the FIS would be prohibited from engaging in any covert collection activities. The FIS would have authority to engage in limited counterintelligence abroad. The National Security Act would be further amended to limit the FIS to advising the NSC on foreign intelligence matters; to making recommendations for coordinating foreign intelligence activities; and to correlating, evaluating and disseminating intelligence information within the Government.

c. All background investigations shall be conducted by the Civil Service Commission.

d. The FIS is prohibited from collecting any information on the "First Amendment activity" of protected persons.

e. The following sections of the CIA Act would be repealed: 5(a) [transfer authority], 5(b) [funds exchange], 6 [exemption for disclosure of Agency personnel, organization, etc.], and 8(b) [unvouchered funds].

f. Publicly-disclosed authorizations would be required for each agency involved in foreign intelligence activities.

g. Criminal penalties and civil remedies are provided for any violation or evasion of the requirements or limits enumerated in this title.

h. "Covert collection" includes techniques which are in violation of the laws of either the U.S. or of the country in which the collection occurs, or which would be in violation of U.S. laws if committed by a foreign country in the U.S.

i. "Clandestine organization" [the use of which in furtherance of covert collection in peacetime would be

prohibited] includes any "secret" proprietorship, corporation or association.

j. "Covert operations" include paramilitary operations, burglaries, bribes, secret payments and assassinations.

7. Title IV amends the FOIA and defines "national defense information."

a. The FOIA exemption would be narrowed to cover only properly classified national defense information, but information that "appears to relate to illegal or unconstitutional activity" would not be exempt from FOIA requirements.

b. "National defense information" is narrowly defined to cover only aspects of military information.

8. Title V establishes the crime of "Official Deceit" by Government officials involved in any cover-up of activities in violation of this Act.

9. Title VI protects Federal officials and employees from adverse action for disclosing or refusing to participate in activity reasonably believed to be illegal.

a. Adverse action against such an individual creates a presumption of wrongful disciplinary action.

b. Civil remedies for violations of this title are provided.

10. Title VII establishes an independent "Office of Special Prosecutor for Violations of Law by Intelligence Agencies."

a. The Special Prosecutor appointed thereunder would have exclusive authority to investigate and prosecute all Federal offenses arising out of intelligence or counter-intelligence activities.

b. A special panel of the U.S. Court of Appeals for D.C. would be established.

c. This title would cease to have effect five years after it takes effect.

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