

The Director of Central Intelligence

11-00000-111 11000

31 December 1992

The Honorable Thomas S. Foley
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

During my confirmation hearings, Senator David Boren, Chairman of the SSCI, asked that I consider developing procedures to govern the dissemination of intelligence information referring to Members of Congress or their staff. After consultation with affected members of the Intelligence Community, I have developed the following approach to address Chairman Boren's concerns.

First, with regard to providing name identification of Members of Congress or staff who have been mentioned in foreign intelligence reports, I have implemented procedures that require, with limited exceptions, my prior written approval. A copy of these procedures is enclosed. I can assure you that I will examine any request for name identification carefully. Release of such information will be approved only if I am satisfied that the requester has a legitimate foreign intelligence or counterintelligence need for the information that cannot be satisfied in any other fashion.

Second, I have considered the need to advise Congress of certain disseminated foreign intelligence reports that may be of special interest or concern to it because the reports refer to Members or staff. Although decisions must be made on a case-by-case basis rather than through application of rigid rules, the factors I will use in deciding to bring such intelligence to the attention of Congress will include whether:

- The information concerns foreign reaction to activities by a Member or staffer with important ramifications for U.S. foreign relations or national security.
- The information concerns a threat of harm to a Member of Congress or staffer.

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The Honorable Thomas S. Foley

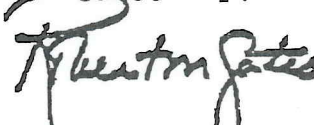
- The information concerns an attempt by a foreign power to target a Member or staffer.
- The name of the Member or staffer has been provided to a requester.
- The information indicates that a Member of Congress or staffer has engaged in activity that is potentially criminal, unethical or of a counterintelligence concern, unless the Department of Justice interposes an objection.
- The information refers to activities of a Member or staffer the disclosure of which would constitute an unwarranted invasion of privacy.

In applying the above criteria, except for the last, I intend to resolve all close questions in favor of notification. Furthermore, I will apply these criteria for Congressional notification even in those circumstances where it is not necessary to obtain my written approval to disseminate the identities of Members or staff referenced in foreign intelligence reports.

Finally, I am concerned that notification be made only to the appropriate entities within Congress. Whenever the above guidelines call for Congressional notification, I will inform you and the Minority Leader, and will seek your views as to who else in the House should be notified.

A similar letter is being sent to the House Minority Leader, the Chairman and Ranking Republican Member of the House Permanent Select Committee on Intelligence, the Majority and Minority Leaders of the Senate and the Chairman and Vice Chairman of the Senate Select Committee on Intelligence.

Sincerely,



Robert M. Gates

Enclosure

JUL 17 '97 09:16 AM

The Director of Central Intelligence
Washington, DC 20505

31 December 1992.

MEMORANDUM FOR: National Foreign Intelligence Board
PrincipalsSUBJECT: Procedures for Dissemination of
Intelligence Referring to Members of
Congress and Their Staffs

1. This memorandum confirms the understanding reached among members of the National Foreign Intelligence Board (NFIB) concerning requests for information identifying Members or staff of Congress contained in disseminated foreign intelligence. As a matter of policy, each NFIB member will promulgate its own internal procedures consistent with the policy described below.

DEFINITIONS

2. (a) Congressional-Identity Information: Refers to information identifying Congressional members or staff. Congressional-Identity Information does not, however, include requests for names of Members or staff in disseminated intelligence reports where the foreign information has been collected overtly, or involves Congressional travel plans or intelligence about reactions to public speeches of Members of Congress, to hearings conducted by Congressional committees, or to proposed or enacted legislation. Accordingly, this memorandum does not apply to such intelligence.

(b) Disseminated foreign intelligence: Refers to the transmittal of intelligence from the acquiring agency to another agency or department.

RETENTION OF CONGRESSIONAL-IDENTITY INFORMATION

3. All foreign intelligence containing Congressional-Identity Information will be reviewed by the NFIB agency component which acquired the information (the "acquiring agency") to determine whether or not the information contains valid foreign intelligence appropriate for retention and dissemination under that agency's Attorney General approved guidelines pursuant to Executive Order 12333.

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Information that does not satisfy these guidelines will be destroyed. Information appropriate for retention and dissemination as valid foreign intelligence will be handled in accordance with the procedures set forth below. Prior to dissemination, all information identifying Members or staff will be removed, and may only be disclosed in accordance with these procedures.

**RESTRICTIONS ON DISSEMINATION OF CONGRESSIONAL-IDENTITY
INFORMATION**

4. Requests by Executive Branch officials, other than the President, Vice President, Secretaries of Defense or State, or the Assistant to the President for National Security Affairs, for Congressional-Identity Information generically referred to in disseminated foreign intelligence must be made in writing to the DCI by a single-designated, senior agency official. Approval of such requests will be made in writing by the DCI with the concurrence of the DCI's General Counsel. This requirement will not apply to any requests by law enforcement officials to obtain the identity of Members or staff who are involved in possible criminal activity, to disseminations expressly limited by the Foreign Intelligence Surveillance Court, to requests for Congressional-Identity Information made by an agency's General Counsel or Inspector General where necessary to the performance of their duties as contemplated by section 1.7(i) of Executive Order 12333, or to disseminations made with the consent of the Member or staff employee involved. A record will be kept by the acquiring agency of all requests for Congressional-Identity Information, and of the disposition of each request received.

5. Notwithstanding the above, and except for the requirement to keep a record of any request and dispositions of the request, these procedures may be waived under certain exigent circumstances as described in this paragraph:

(a) Information identifying Members or staff may be provided directly to appropriate government officials for action if a person's life or physical safety is reasonably believed to be in imminent danger. The DCI shall be informed about the intelligence and its emergency dissemination as soon as possible.

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(b) Information identifying Members or staff in a disseminated intelligence report may be forwarded directly to the requesting agency when the intelligence is of a time-critical nature. The DCI shall be informed of the dissemination of the Congressional-Identity Information as soon after the dissemination as possible.

6. In all cases where identity information is directly provided, the DCI will receive an information copy.

7. With respect to information for which the acquiring agency and the organization requesting Congressional-Identity Information both are within the Department of Defense, the Secretary of Defense shall perform the functions set forth for the DCI in paragraphs 4, 5, and 6 and the General Counsel of the Department of Defense shall perform the duty set forth for the DCI's General Counsel in paragraph 4.

8. I will inform the Chairman and Ranking Minority Members of the Intelligence Committees, the Speaker and Minority Leader of the House of Representatives, and the Majority and Minority Leader of the Senate of these procedures on behalf of the NFIP.


Robert M. Gates