



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

March 17, 1992

Honorable Les Aspin
Chairman, Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your request for my views regarding H.R. 4165, the "National Security Act of 1992" and provides my views regarding a similar bill which has been introduced in the Senate, S. 2198, the "Intelligence Reorganization Act of 1992." I would recommend that the President veto these bills if either were presented to him in its current form.

Both bills are unnecessary and so severely flawed that selective amendments would not make either of them acceptable. They contain a number of provisions which needlessly duplicate actions already underway, or completed, to improve the functioning of the Intelligence Community, without legislation. Moreover, both bills would unwisely create a single, national intelligence "czar." Departmental requirements for intelligence vary widely within the Federal government because mission needs are so different. Over the past 45 years, the Intelligence Community structure has evolved to accommodate national, departmental and tactical needs for intelligence, based on the practical realities of lessons learned and codified in appropriate Executive orders. During this period the Department of Defense has actively participated in the evolution of the Intelligence Community.

The roles of the Secretary of Defense and the Director of Central Intelligence have evolved in a fashion that meets national, departmental and tactical intelligence needs. Each of the reorganization bills would seriously impair the effectiveness of this arrangement by assigning inappropriate authority to the proposed Director of National Intelligence (DNI), who would become the director and manager of internal DoD activities that in the interest of efficiency and effectiveness must remain under the authority, direction, and control of the Secretary of Defense. Of major concern, the reorganization bills hold the prospect of reducing the effectiveness of intelligence support to our warfighting commanders.

For these reasons, I strongly oppose this proposed legislation. We appreciate support for U.S. intelligence efforts but, regrettably, this legislation hurts, not helps, those efforts.

Sincerely,

cc: Honorable William Dickinson
Ranking Republican



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20301-1600

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Dear Mr. Chairman:

This letter responds to your request for the views of the Secretary of Defense regarding H.R. 4165, the "National Security Act of 1992" and addresses a similar bill introduced in the Senate, S. 2198, the "Intelligence Reorganization Act of 1992."

The Secretary of Defense would recommend that the President veto either bill if presented to him in its current form. The position of the Department of Defense is that both bills are unnecessary, and are so severely flawed that selective amendments would not make either of them acceptable to the Department. The following comments focus on provisions of both bills to which DoD takes major objection. No attempt is made to present a section-by-section analysis, although that can be provided if desired.

There are already a number of actions underway, or completed, that will improve the functioning of the Intelligence Community, without legislation. However, both bills have provisions that parallel these actions, including those that:

- Are under active consideration among the agencies of the Intelligence Community;
- Have been studied in the Intelligence Community and are nearing decision, such as the restructuring of the organization which conducts special reconnaissance activities;
- Have been approved by the Secretary of Defense and the Director of Central Intelligence (DCI), such as appointment of a two-star active duty general to the post of Assistant Deputy Director of Operations (Military Support) in the CIA.

The United States does not need an intelligence "czar." Departmental requirements for intelligence vary widely within the Federal government because mission needs are so different. Over the past 45 years, the Intelligence Community structure has evolved to accommodate national, departmental, and tactical needs for intelligence. This Community structure has been developed

based on the practical realities of lessons learned, and codified in appropriate Executive orders. During this period the Department of Defense has actively participated in the evolution of the Intelligence Community.

The roles of the Secretary of Defense and the Director of Central Intelligence have evolved in a fashion that meets national departmental and tactical intelligence needs. Each of the reorganization bills would seriously impair the effectiveness of this arrangement by assigning inappropriate authority to the proposed Director of National Intelligence (DNI), who would become the director and manager of internal DoD activities that in the interest of efficiency and effectiveness must remain under the authority, direction, and control of the Secretary of Defense. Of major concern, the reorganization bills hold the prospect of reducing the effectiveness of intelligence support to our warfighting commanders.

The provision to create a centralized analytic structure to produce government-wide intelligence would inhibit competitive analysis and, thus, threaten the integrity of the intelligence product and prevent competing analytical views from coming to the attention of senior decision makers. Such a structure staffed with analysts that are dependent on the DNI for their position and the opportunity for advancement, could lead to a corporate analytic viewpoint where alternative views are not surfaced, the best intentions and injunctions notwithstanding. It does not appear prudent to make such a fundamental change in the analytic structure, given the potential risk to national security associated with a corporate analytic viewpoint and the proven track record of the advantages of competitive analysis. Better national security decisions result when the full range of intelligence analysis is considered.

The provisions which are at the heart of both bills, the new arrangements for dealing with intelligence programs and budgets and the related proposed role of the DNI with respect to DoD intelligence activities and resources, would seriously undermine responsibilities of the Secretary of Defense for management of the Defense Department. A major objection is made specifically to the similar provisions in both bills that drastically revise current programming and budgeting for DoD intelligence activities, and give the DNI far more extensive authority and responsibility for program and budget matters than is now exercised by the DCI. The proposals would remove the Secretary of Defense from the process, although DoD resources represent about four-fifths of the NFIP. More specifically, the bills propose the following unacceptable changes:

- The DNI would "manage" all collection activities, including those established within the Department of Defense. The DCI is not presently

assigned authority to manage intelligence assets other than those of the CIA. Management of the DoD is a Secretary of Defense responsibility.

- The National Security Agency (NSA) and Defense Intelligence Agency (DIA) are designated as Combat Support Agencies, pursuant to the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 992 at 1021 (10 U.S.C. 193)), and are thereby responsible to the Secretary of Defense for their readiness to support military operations. Combat Support Agencies must be especially responsive to the needs of warfighting commanders. If the DNI were to "manage" the activities of these organizations, they would be less responsive to military commanders' needs.

- The NFIP budget would be separated from the DoD budget. Accordingly, the full cost of intelligence activities would be allocated to the NFIP rather than be borne by other DoD elements, as is now the case, since intelligence funding would no longer be viewed as integral to the Defense Department. This would include such matters as

- the full cost of launch-related activities for the satellite reconnaissance effort;

- the proportionate O&M costs at military bases on which an intelligence organization is only one of several tenants; and

- the cost of training pilots and other intelligence support personnel for assignment to intelligence activities.

- The proposal to change the TIARA effort to a markedly circumscribed Tactical Intelligence Program (TIP) could be expected to restrict, and might even reverse, departmental efforts to promote jointness and improve the interface among tactical intelligence systems of the Military Services.

The Secretary of Defense has approved two major reorganization efforts in the past year designed to strengthen the Department's performance of its intelligence functions, and to implement the corporate information management initiative throughout the Department. A critical aspect of these reorganizations was the central role the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence

(ASD(C3I)) must play in implementing the requisite integration of military C3, intelligence, and information management functions. As demonstrated in the Persian Gulf, information is the competitive advantage in war. Defense information must be structured for common usage and able to flow across all functional areas of the Department. The Department's reorganization initiatives are focused on eliminating information boundaries and organizational impediments between the business, command and control, and intelligence functions that could hamper the flow of information needed by the combat forces. The Senate reorganization bill would hamper this arrangement by directing that there be separate ASDs for Intelligence and C3.

The Secretary of Defense's flexibility to organize DoD intelligence resources to meet new international challenges would be proscribed severely by the proposed legislative charters for DoD agencies provided in these bills.

- NSA has functioned effectively for 40 years and the DIA for 30 years under charters established by the President and the Secretary of Defense, and without legislative charters. More importantly, intelligence activities established within the Department of Defense have served under the authority, direction, and control of the Secretary of Defense. Both bills contain unacceptable provisions that place DoD intelligence organizations under the authority and guidance of the DNI ("authorities and guidance" is not defined in either bill). An effective Defense Department, especially during armed conflict, depends upon a clear, streamlined chain of command under the President and the Secretary of Defense.

- Internal DoD reorganization of special reconnaissance activities has been under study in DoD and some changes are in process. The Senate bill would hinder these efforts by making the NSA the sole agent for procurement and operation of SIGINT overhead reconnaissance systems, and the proposed National Imagery Agency (NIA) would be sole agent for procurement and operation of imagery overhead reconnaissance systems. The House bill takes a different approach, establishing a Reconnaissance Support Activity to be the sole agency for conduct of RDT&E, procurement, launch, operation and final disposition of overhead reconnaissance systems while NSA and NIA would be the sole agents for defining technical specification of these systems. While the bills' organizational arrangements for this purpose conflict, the provisions of either bill would be expensive to implement and unduly complicate the process.

The proposal that the Secretaries of the Military Departments be given a legislative charter to maintain capabilities to collect and produce intelligence is unnecessary and counterproductive. The authorities for intelligence assigned to the Secretaries of the Military Departments in sections 3013(c)(7), 5013(c)(7), and 8013(c)(7) of title 10, United States Code, and the existing Military Department authority to train, equip and organize forces which includes the training, equipping and organizing of intelligence personnel, are sufficient to enable the Secretaries of the Military Departments to fulfill their overall responsibilities and assist the Secretary of Defense in exercising effective civilian control over intelligence activities. Further, by assigning to the Military Departments intelligence functions that are also the responsibility of the combatant commanders and the DIA, the proposed provision could be interpreted in a manner that would be incompatible with departmental efforts to promote jointness and to improve support to the combatant commands pursuant to the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

In sum, both bills propose an Intelligence Community structure and an allocation of intelligence responsibilities and authorities that are inappropriate and would markedly increase the costs associated with the National Foreign Intelligence Program; undermine the ability to fulfill statutory responsibilities assigned to the heads of Executive Departments; and have a decidedly negative impact on intelligence support to the operating military forces.

Accordingly, the Department of Defense strongly opposes this legislation.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of these comments to the Committee for its consideration.

Sincerely,

Chester Paul Beach, Jr.
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Acting General Counsel

cc: Honorable William Dickinson
Ranking Republican