



SENATE REPUBLICAN

POLICY COMMITTEE

Conference Report Highlights

February 13, 2008

Highlights of the Conference Report to Accompany H.R. 2082 – Intelligence Authorization Act for FY 2008

The Conference Report, H. Rep. 110-478, was filed on December 6, 2007.

Noteworthy

- The conference report to accompany H.R. 2082 authorizes appropriations for the intelligence activities of the United States, and related personnel requirements.
- The conference report limits the treatment and interrogation techniques for anyone in U.S. custody to those authorized by the U.S. Army's interrogations manual.
- It requires that the congressional intelligence committees be fully briefed on the suspected Syrian nuclear facility that was destroyed by Israel in September 2007, and requires regular reports on the nuclear programs of North Korea and Iran.
- It creates a new Inspector General of the Intelligence Community (IC), subject to Senate confirmation, makes other positions subject to Senate confirmation.
- It requires a report on activities authorized in connection with efforts to remove democratically-elected regimes during the past 10 years, if any.
- It imposes extensive study, reform, and reporting requirements in connection with a new management architecture for the IC and its acquisition and contracting activities.
- On December 13, 2007, the House passed the conference report by a vote of 222 – 199.
- The Statement of Administration Policy on the conference report contained a veto threat.

Highlights

In the conference report to accompany H.R. 2082, Congress authorizes appropriations for the intelligence activities of the United States, and related personnel requirements. Title I authorizes funds for budget and personnel. Title II authorizes funds for the Central Intelligence Agency's (CIA) retirement and disability system. Title III contains general provisions related to the Intelligence Community (IC), including personnel, acquisition and other matters. Title IV contains provisions related to various specific elements of the IC, including the Office of the Director of National Intelligence (DNI), CIA, and Defense Intelligence components. Title V contains general intelligence matters and technical amendments. The dollar figures and personnel figures are for the most part contained in a classified annex that is available only to members.

Title I – Budget and Personnel Authorizations

The conference report authorizes funds and personnel ceilings according to a classified annex. It authorizes \$734.1 million and 952 personnel for the DNI's Intelligence Community Management Account; of this sum, \$39 million must be made available to the National Drug Intelligence Center.

Title II – Central Intelligence Agency Retirement and Disability System

The conference report authorizes \$262.5 million for the CIA's retirement and disability fund.

Title III – General Intelligence Community Matters

Title III contains several important provisions related to management and acquisitions; limiting interrogation techniques to those contained in the Army interrogations manual; and the suspected nuclear facility destroyed by Israel inside Syria.

- The title contains a variety of study and reporting requirements on the IC's personnel and personnel systems, from diversity issues to the acquisitions of major systems, and requires the development of a "business enterprise architecture" for the IC.
- It limits the treatment and interrogation techniques of anyone in the custody of the U.S. government to those authorized by the U.S. Army Field Manual on Human Intelligence Collector Operations. It is not clear whether this provision requires adherence to the Army interrogations manual in its current iteration, or as it may be revised from time to time in the future.
 - Because this provision appeared in neither the House nor Senate bills, a point of order may be brought against it under Rule 28 of the Standing Rules of the Senate.

- It provides that no more than 30 percent of the funds authorized for a specific expenditure center may be spent until all the members of the congressional intelligence committees have been fully and currently informed on the suspected Syrian nuclear facility reportedly destroyed by Israel in September 2007.
- It incorporates each of the reporting requirements contained in the classified annex and makes it a requirement in law. It is not clear whether the referenced reporting requirements would include reports in future years.

Title IV – Matters Relating to Elements of the Intelligence Community

Title IV contains various provisions pertaining to particular elements of the IC.

- The DNI will be required to submit regular reports on the nuclear programs of both Iran and North Korea, which will provide an opportunity for current and future DNIs to correct the confusion created by the 2007 National Intelligence Estimate on Iran’s nuclear program.
- This title also creates a new inspector general of the IC, with jurisdiction substantially overlapping that of the inspectors-general of the various elements of the IC. The new position would be appointed by the president, confirmed by the Senate, and would report directly to the DNI. To bolster the inspector general's independence within the intelligence community, the IG could be removed only by the president. This title also creates an Intelligence Community Inspectors General Forum to resolve disputes between IGs. There is also a mechanism for the DNI and the head of an element to resolve disputes. Finally, it gives the DNI the ability to terminate an investigation by the IGIC for national security reasons. The title also contains increased protection for “whistleblowers.”
- It also makes the directors of the National Security Agency and National Reconnaissance Office subject to Senate confirmation.

Title V – Other Matters

Among the noteworthy provisions of this title is a requirement for a report, within 120 days, on all the intelligence activities authorized, if any, in connection with efforts to remove democratically-elected regimes during the past 10 years, if any.

Administration Position

The administration issued a Statement of Administration Position (SAP) relating to H.R. 2082 on December 11, 2007. In its first paragraph, the SAP states that the bill contains objectionable provisions and that if the bill were to be presented to the President for signature, his senior advisors would recommend that he veto the bill.

Among the other objections to the conference report, the SAP states:

Requirement that Executive Branch Agencies Use Only Interrogation Techniques Authorized by the Army Field Manual

Section 327 would prevent the United States from conducting lawful interrogations of senior al Qaeda terrorists to obtain intelligence needed to protect Americans from attack. Such interrogations have helped the United States disrupt multiple attacks against Americans at home and abroad, thus saving American lives. The Military Commissions Act of 2006, enacted just over one year ago, struck the acceptable balance with respect to collection of intelligence from captured terrorists. Section 327 would prevent the President from taking the lawful actions necessary to protect Americans from attack in wartime.

Inspector General for the Intelligence Community

Section 413 creates a duplicative new inspector general for the Intelligence Community (IC), even though every element of the IC already falls within the jurisdiction of an existing statutory inspector general. The existing inspectors general of the departments with elements in the IC, and the Central Intelligence Agency, are best suited to perform the necessary investigative, inspection, and audit functions. There is no need to spend additional taxpayer resources to provide for two inspectors general with competing jurisdiction over the same intelligence elements.

This provision also would create another Senate-confirmed position in the IC. This is contrary to the recommendations of the 9/11 Commission, which noted that intelligence officials need to assume their duties and responsibilities as quickly as possible, without the long delays recent nominees have experienced in the confirmation process.