

30 WAYS TO SHRINK INTELLIGENCE OVERSIGHT

Correction: I misunderstood a few things about this. First, this is the request from DNI, not what the Intelligence Committees have agreed to. And the House—which has taken up this request—did not accept all these requests (including the clearances audit). This post has been altered accordingly.

The DNI released their 2013 Intelligence Authorization request yesterday. Almost 10 pages of the 24 page document describe reporting that these “oversight” committees will no longer require from the Intelligence Community. The bill starts by putting a default 3 year expiration on any new reporting requirements. And then it includes a list of 27 reports that the bill will eliminate and another 3 that it will modify.

And while some of the reports may well be redundant or outdated (the justification given for most of the changes), some seem really troubling. For example, the bill would eliminate a requirement—passed just three years ago—that the Administration audit and report (partially in unclassified form) the total number of security clearances and how long it takes to approve and reapprove those clearances. Here’s how the bill justifies eliminating such a report:

Justification: Section 506H includes two enduring reporting requirements. The requirement for a quadrennial audit of positions requiring security clearances should be repealed because the National Counterintelligence Executive, in partnership with other agencies with similar responsibilities, examines the manner in which security clearance requirements are determined more

frequently than once every four years. Rather than submit a report regarding a quadrennial activity, the executive branch can provide more frequent briefings, as requested, if congressional interest persists. With regard to the annual reporting requirement on security clearance determinations, the Executive Branch as a whole has made significant progress in expediting and streamlining the security clearance process since the passage of the Intelligence Reform and Terrorism Prevention Act, thus reducing the saliency of this report. This reporting requirement should be replaced by briefings, as requested, if congressional interest persists.

What this effectively does is eliminate one way for citizens to see at least the outlines and scope of our secret government. Rather than a partially unclassified report, instead, the intelligence community will brief Congress, rendering it not only secret, but eliminating some of the paperwork that can be FOIAed or archived.

The bill also would eliminate a requirement for the Director of National Intelligence and CIA Director to each provide an annual list of any advisory committees they've created, their subject, and their members. I'm guessing the proposed substitution—regular Congressional notifications and briefings—is probably not going to include the same level of detail. And given ODNI's inadequate response to Electronic Frontier Foundation on an advisory committee as important as the Intelligence Oversight Board, I'm not all that confident it will provide adequate notice on more obscure advisory committees. Moreover, there is a history of advisory board members obtaining great influence and advantages from their position. Lists of members should be on paper somewhere.

The bill would also eliminate a requirement that

the Department of Homeland Security tell the committee what kind of feedback its notoriously shitty intelligence department State, local, or tribal law enforcement people provide on that reports DHS's intelligence department generates. Just last September, DHS's customers were complaining about the "intelligence spam" DHS was pushing out. And yet here's what the bill says to justify eliminating this feedback loop.

This reporting requirement is several years old. It should be replaced with briefings, as requested, if congressional interest persists.

If an intelligence department is as shitty as DHS', eliminating reporting evidence of that doesn't seem to be the solution.

The bill would eliminate two reporting requirements imposed in the wake of the Wen Ho Lee scandal: that the President report on how the government is defending against Chinese spying and that the Secretary of Energy report on the security of the nation's nuclear labs. Just last year, the Oak Ridge National Laboratory had to separate from the Internet because some entity—China would be a good candidate—had hacked the lab and was downloading data from their servers. Now seems a really stupid time to stop reporting on efforts to avoid such breaches.

The bill would change the a quarterly report on the activities of privacy and civil liberties officers to a semiannual report because "has proven burdensome to submit these reports on a quarterly basis, particularly with limited staff." Now maybe I'm being persnickety here. If privacy and civil liberties officers are that busy, all the more reason to tell Congress very regularly what they're doing. If they need more staff, fund them. But I find this change particularly troubling given the way NCTC just got access to all government databases; the primary oversight on that vast expansion of data mining depends on NCTC's privacy officer. Six

months is too long to wait for reports about this shoddy oversight to make it to Congress.

~~Then again, obviously Congress wants it that way. While the request to eliminate these reports may have come from the Administration, Congress willingly passed it. In other words, to the extent these reports serve important functions (again, I accept that some of them may well be redundant), Congress has just abdicated its role in oversight.~~

And briefings?!?!? Really, you're going to rely on briefings? With all the inadequacy and deceit we've seen with intelligence briefings we've had over the last decade?!?!?