

# JAMES CLAPPER'S TWISTED DEFINITION OF AN INSIDER THREAT

Back when I reviewed the goodies the House Intelligence Committee had given James Clapper in this year's Intelligence Authorization, I noted the bill eliminated this report on potential conflicts in outside employment (see clause u).

The Director of National Intelligence shall annually submit to the congressional intelligence committees a report describing all outside employment for officers and employees of elements of the intelligence community that was authorized by the head of an element of the intelligence community during the preceding calendar year.

That change – which will make it harder for people to track the kinds of conflicts of interest a number of top NSA officials recently got caught with – survived in the Omnibus into which the Intelligence Authorization got integrated. Which probably means we'll be seeing more spooks getting paid by contractors on the side.

Yesterday, WaPo described a reporting requirement that had been in the Senate Intelligence Authorization, but got watered down in the Omnibus: a report on promotions revealing whether those being promoted were "unfit or unqualified."

Under a provision drafted by the Senate Intelligence Committee this year, intelligence agencies would have been required to regularly provide names of those being promoted to top positions and disclose any "significant and credible information to suggest that the individual is unfit or unqualified."

As WaPo explained, the measure was an effort by Dianne Feinstein to prevent the kinds of things reported in the SSCI Torture Report, where people with a history of abuse were put in charge of interrogation programs, or the example of Alfreda Bikowsky (whom WaPo describes but doesn't name), whose series of failures qualified her for increasingly senior positions at CIA. WaPo makes clear this kind of failing upwards continues at CIA.

*More recently, a top CIA manager who had been removed from his job for abusive treatment of subordinates was reinstated this year as deputy chief for counterintelligence at the Counterterrorism Center.*

In short, the measure was meant to ensure that CIA (and other agencies) weren't led by a bunch of abusive incompetents. But James Clapper couldn't allow that apparently, because abusive incompetents would apparently decline promotion if they would be revealed to oversight committees as abusive incompetents.

*U.S. officials offered multiple explanations for Clapper's objections. Several said that his main concern was the bureaucratic workload that would be generated by legislation requiring so much detail about potentially hundreds of senior employees across the U.S.*

intelligence community.

But others said that U.S. spy chiefs chafed at the idea of subjecting their top officials to such congressional scrutiny and went so far as to warn that candidates for certain jobs would probably withdraw.

Lawmakers were told that "some intelligence personnel would be reluctant to seek promotions out of concern that information about them would be presented to the Hill," said a U.S. official involved in the discussions.

So he balked and Congress watered down the requirement. Here's what remains of the measure:

(a) DIRECTIVE REQUIRED.—The Director of National Intelligence shall issue a directive containing a written policy for the timely notification to the congressional intelligence committees of the identities of individuals occupying senior level positions within the intelligence community.

The fine print on the requirement probably provides ways for Clapper to squish out of it in many cases by invoking covert status (which, in turn, likely means CIA will expand its current practice of pretending top managers are covert to protect them from scrutiny) or otherwise claiming senior people are not sufficiently senior to require notice.

So rather than preventing the CIA and other agencies from promoting abusive incompetents, the measure will likely lead to them being hidden further behind CIA's secrecy.

Which is interesting, especially given another Intel Authorization measure that survived in the Omnibus, that I earlier described as an effort to make sure spooks and those in sensitive

positions aren't joining EFF or similar organizations.

The committee description of this section explains it will require DNI to do more checks on spooks (actually spooks *and* "sensitive" positions, which isn't full clearance).

Section 306 directs the Director of National Intelligence (DNI) to develop and implement a plan for eliminating the backlog of overdue periodic investigations, and further requires the DNI to direct each agency to implement a program to provide enhanced security review to individuals determined eligible for access to classified information or eligible to hold a sensitive position.

These enhanced personnel security programs will integrate information relevant and appropriate for determining an individual's suitability for access to classified information; be conducted at least 2 times every 5 years; and commence not later than 5 years after the date of enactment of the Fiscal Year 2016 Intelligence Authorization Act, or the elimination of the backlog of overdue periodic investigations, whichever occurs first.

Among the things ODNI will use to investigate its spooks are social media, commercial data sources, and credit reports. Among the things it is supposed to track is "change in ideology." I'm guessing they'll do special checks for EFF stickers and hoodies, which Snowden

is known to have worn without much notice from NSA.

Remember, one complaint Clapper had about the gutted requirement he identify the abusive incompetents being promoted at intelligence agencies is the added bureaucracy of tracking just those being promoted in management ranks. But he apparently had no problem with a requirement that ODNI track the social media of everyone at all agencies to make sure they're going to keep secrets and don't harbor any "ideology" changes like support for the Bill of Rights.

That is, Clapper's perfectly willing to expand his bureaucracy to look for leakers, but not to weed out the dangerously incompetent people ordering potential leakers around.

Apparently, to James Clapper, people who might leak about those unfit for management are more dangerous insider threats than having entire centers run by people unfit for management.