

U.S., Hill Differ on Intelligence Charter

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In a sharp departure from a proposed congressional "reform" measure, administration officials have tentatively decided against attempting to define a list of covert acts forbidden to the Central Intelligence Agency.

Instead, according to aides involved in the drafting task, they would rely on "procedural safeguards" — secret presidential approval and notice to Congress—to control the CIA's covert operations.

In effect, the charter would rely on presidential discretion to determine what is and is not legitimate. The one exception in the code specifically prohibits the assassination of foreign officials.

The administration approach is vastly different from that embodied in a code proposed last year by the Senate Intelligence Committee. Its draft measure would outlaw a wide range of acts, from torture to the "violent overthrow of the democratic government of any country."

The White House had hoped to send Congress a bill in January governing the conduct of the nation's intelligence agencies. Officials have been

trying to write a measure that would be acceptable to the Senate committee. But the wide difference in approach towards covert operations could be another cause for delay that might doom the passage of any measure. Even so, administration aides believe they will be ready to introduce a bill in four to six weeks.

The administration's code-writers contend that it is impossible to come up with workable definitions of forbidden acts.

"What is a 'democratic government?'" one aide asked. "Does the prohibition license the nonviolent overthrow of a democratic government? Or the violent overthrow of a non-democratic government?"

These questions, he said, point up another problem posed by any list of "Thou Shalt Not's." Anything not strictly forbidden could be regarded as legitimate. So, the aide argued, the code could inadvertently license outrageous or barbarous behavior not foreseen in advance.

The tentative administration draft must still be approved by a Cabinet-level panel of the National Security Council and by the president himself. It contains the exception prohibiting

assassination largely for political reasons. Aides doubt their code would win public support if this provision was omitted.

The Senate Intelligence Committee draft would also prohibit the CIA and other U.S. intelligence agencies from supporting international terrorist activities; from causing the mass destruction of property; from creating floods, epidemics or shortages of food and water; from using illegal chemical and biological weapons; and from aiding foreign police or intelligence agencies to violate human rights.

Civil libertarians may see the administration draft as a triumph for intelligence services who seek the freest possible hand. Officials acknowledge that they do "want to leave the door open" for "violent paramilitary operations," for example.

The code writers say their measure will incorporate strong safeguards to ensure against abuse. A proposed covert operation abroad would first have to win approval from a committee consisting of the secretaries of state and defense; the attorney general; the director of the office of Management and Budget; the director of the Central Intelligence Agency; the

Joint Chiefs of Staff and the president's assistant for national security affairs.

If they okayed the project, the president would then have to find that it was necessary to the security of the United States. Finally, he would report the scheme to the House and Senate Intelligence committees and the six other congressional committees dealing with foreign affairs, defense and appropriations.

The administration would like to trim this congressional list to the two intelligence committees, but doubts that this could pass.

The like response of Congress is given as another reason for substituting "procedural safeguards" for the catalogue of specifically banned behavior. The code writers believe that sentiment has changed on Capitol Hill, that a growing number of legislators fear inhibiting the CIA and fewer worry about curbing it.

This belief is said to have been strengthened by the overthrow of the shah of Iran. Former secretary of state Henry A. Kissinger, among others, has attributed the shah's downfall in part to a CIA weakened by public disfavor.