

Text of Ford Plan on Intelligence

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WASHINGTON, Feb. 18— Following are the text of President Ford's message to Congress outlining proposed changes in the structure and authority of the intelligence community and excerpts from his executive order, effectively immediately, placing new restrictions of intelligence activities and establishing a new oversight aspect.

Ford Message

To the Congress of the United States:

By virtue of the authority vested in me by Article II, Sections 2 and 3 of the Constitution, and other provisions of law, I have today issued an executive order pertaining to the organization and control of the United States foreign intelligence community. This order establishes clear lines of accountability for the nation's foreign intelligence agencies. It sets forth strict guidelines to control the activities of these agencies and specifies as well as those activities in which they shall not engage.

In carrying out my constitutional responsibilities to manage and conduct foreign policy and provide for the nation's defense, I believe it essential to have the best possible intelligence about the capabilities, intentions and activities of governments and other entities and individuals abroad. To this end, the foreign intelligence agencies of the United States play a vital role in collecting and analyzing information related to the national defense and foreign policy.

It is equally as important that the methods these agencies employ to collect such information for the legitimate needs of the Government conform to the standards set out in the Constitution to preserve and respect the privacy and civil liberties of American citizens.

The executive order I have issued today will insure a proper balancing of these interests. It establishes Government-wide direction for the foreign intelligence agencies and places responsibility and accountability on individuals not institutions.

I believe it will eliminate abuses and questionable activities on the part of the foreign intelligence agencies while at the same time permitting them to get on with their vital work of gathering and assessing information. It is also my hope that these steps will help to restore public confidence in these agencies and encourage our citizens to appreciate the valuable contribution they make to our national security.

THURSDAY, FEBRUARY 19, 1976

Units and Excerpts From

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His Executive Order



United Press International

President Ford after signing his message to Congress

Therefore, I am proposing legislation to impose criminal and civil sanctions on those who are authorized access to intelligence secrets and who willfully and wrongfully reveal this information. This legislation is not an "official secrets act," since it would affect only those who improperly disclose secrets, not those to whom secrets are disclosed. Moreover, this legislation could not be used to cover up abuses and improprieties. It would in no way prevent people from reporting questionable activities to appropriate authorities in the executive and legislative branches of the government.

It is essential, however, that the irresponsible and dangerous exposure of our nation's intelligence secrets be stopped. The American people have long accepted the principles of confidentiality and secrecy in many dealings—such as with doctors, lawyers and the clergy. It makes absolutely no sense to deny this same protection to our intelligence secrets. Openness is a hallmark of our democratic society, but the American people have never believed that it was necessary to reveal the secret war plans of the Department of Defense, and I do not think they wish to have true intelligence secrets revealed either.

I urge the adoption of this legislation with all possible speed.

Second, I support proposals that would clarify and set statutory limits, where necessary, on the activities of the foreign intelligence agencies. In particular, I will support legislation making it a crime to assassinate or attempt to conspire to assassinate a foreign official in peacetime. Since it defines

Beyond the steps I have taken in the executive order, I also believe there is a clear need for some specific legislative actions. I am today submitting to the Congress of the United States proposals which will go far toward enhancing the protection of true intelligence secrets as well as regularizing procedures for intelligence collection in the United States.

Protecting Sources

My first proposal deals with the protection of intelligence sources and methods. The Director of Central Intelligence is charged, under the National Security Act of 1947, as amended, with protecting intelligence sources and methods. The act, however, gives the director no authorities commensurate with this responsibility.

a crime, legislation is necessary.

Third, I will meet with the appropriate leaders of Congress to try to develop sound legislation to deal with a critical problem involving personal privacy—electronic surveillance. Working with Congressional leaders and the Justice Department and other executive agencies, we will seek to develop a procedure for undertaking electronic surveillance for foreign intelligence purposes. It should create a special procedure for seeking a judicial warrant authorizing the use of electronic surveillance in the United States for foreign intelligence purposes.

Supervised Mail Openings

I will also seek Congressional support for sound legislation to expand judicial supervision of mail openings. The law now permits the opening of United States mail, under proper judicial safeguards, in the conduct of criminal investigations. We need authority to open mail under the limitations and safeguards that now apply in order to obtain vitally needed foreign intelligence information.

This would require a showing that there is probable cause to believe that the sender or recipient is an agent of a foreign power who is engaged in spying, sabotage or terrorism. As is now the case in criminal investigations, those seeking authority to examine mail for foreign intelligence purposes will have to convince a Federal judge of the necessity to do so and accept the limitations upon their authorization to examine the mail provided in the order of the court.

Fourth, I would like to share my views regarding appropriate Congressional oversight of the foreign intelligence agencies. It is clearly the business of the Congress to organize itself to deal with these matters. Certain principles, however, should be recognized by both the executive and legislative branches if this oversight is to be effective. I believe good Congressional oversight is essential so that the Congress and the American people whom you represent can be assured that the foreign intelligence agencies are adhering to the law in all of their activities.

Congress should seek to centralize the responsibility for oversight of the foreign intelligence community. The more committees and subcommittees dealing with highly sensitive secrets, the greater the risks of disclosure. I recommend that Congress establish a joint foreign intelligence oversight committee. Consolidation of Congressional oversight in one committee will facilitate the efforts of the Administration to keep the Congress fully informed of foreign intelligence activities.

It is essential that both the House and the Senate establish firm rules to insure that foreign intelligence secrets will not be improperly disclosed. There must be established a clear process to safeguard these secrets and effective measures to deal with unauthorized disclosures.

Secrecy Emphasized

Any foreign intelligence information transmitted by the executive branch to the oversight committee, under an injunction of secrecy, should not be unilaterally disclosed without my agreement. Respect for the integrity of the Constitution requires adherence to the principle that no individual member, nor committee, nor single house of Congress can overrule an act of the executive. Unilateral publication of classified information over the objection of the President, one committee or one house of Congress, not only violates the doctrine of separation of powers, but also effectively overrules the actions of the other house of Congress, and perhaps even the majority of both houses.

Finally, successful and effective Congressional oversight of the foreign intelligence agencies depends on mutual trust between the

Congress and executive. Each branch must recognize and respect the rights and prerogatives of the other if anything is to be achieved.

In this context, a Congressional requirement to keep the oversight committee "fully" informed is more desirable and workable as a practical matter than formal requirements for notification of specific activities to a large number of committees. Specifically, Section 662 of the Foreign Assistance Act, which has resulted in over six separate committee briefings, should be modified as recommended by the Commission on the Organization of the Government for the Conduct of Foreign Policy, and reporting should be limited to the new oversight committee.

Both the Congress and the executive branch recognize the importance to this nation of a strong intelligence service. I believe it urgent that we take the steps I have outlined above to insure that America not only has the best foreign intelligence service in the world, but also the most unique—one which operates in a manner fully consistent with the constitutional rights of our citizens.

Executive Order

Foreign intelligence agencies shall not engage in any of the following activities:

(1) Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the foreign intelligence agency and directed against any of the following:

(I) A present or former employee of such agency, its present or former contractor's or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or

(II) A United States person, who is in contact with either such a present or former contractor or employee of a foreign intelligence or person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent neces-

sary to identify such United States person; or

(III) A United States person outside the United States who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) Electronic surveillance to intercept communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General; provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except for the purpose of testing equipment under procedures approved by the Attorney General consistent with law.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General.

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(7) Collection of information, however acquired, concerning the domestic activities of United States persons except:

(I) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.

(II) Information concerning present or former employers, present or former employees, or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counter-intelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counter-intelligence inquiry.

(III) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

(IV) Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with section 5(b)(2); or foreign intelligence acquired from cooperating sources in the United States.

(V) Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities.

(VI) Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel, provided, that such information is retained only by the foreign intelligence agency threatened and that proper coordination with the Federal Bureau of Investigation is accomplished.

[C] Dissemination and Storage. Nothing in this section of this order shall prohibit:

(1) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.

(2) Storage of information required by law to be retained.

(3) Dissemination to foreign intelligence agencies of information of the subject matter types listed in section 5 (b) (7).

Restrictions on Experimentation. Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the national commission for the protection of human subjects for biomedical and behavioral research.

Assistance to Law Enforcement Authorities.

(1) No foreign intelligence agency shall, except as expressly authorized by law (I) provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to state or local police organizations of the United States or (II) participate in or fund any law enforcement activity within the United States.

(2) These prohibitions shall not, however, preclude: (I) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence or (II) provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

(F) Assignment of Personnel. An employee of a foreign intelligence agency details elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

(G) Prohibition of Assassination. No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(H) Implementation.

(1) This section of this order shall be effective on March 1, 1976. Each department and agency affected by this section of this order shall promptly issue internal directives to implement this section with respect to its foreign intelligence and counter-intelligence operations.

(2) The Attorney General shall, within ninety days of the effective date of this section of this order, issue guidelines relating to activities of the Federal Bureau of Investigation in the areas of foreign intelligence and counterintelligence.

Oversight of Intelligence Organizations.

Oversight of Intelligence Organizations.

(A) There is hereby established an Intelligence Oversight Board, hereinafter referred to as the oversight board.

(1) The oversight board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. The members of the oversight board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969.) No member of the oversight board shall have any personal contractual relationship with any agency or department of the intelligence community.

(2) One member of the oversight board shall be designated by the President as its chairman.

(3) The oversight board shall:

(I) Receive and consider reports by inspectors general and general counsels of the intelligence community concerning activities that raise questions of legality or propriety.

(II) Review periodically the practices and procedures of the inspectors general and general counsels of the intelligence community designed to discover and report to the oversight board activities that raise questions of legality or propriety.

(III) Review periodically with each member of the intelligence community their internal guidelines to ensure their adequacy.

(IV) Report periodically, at least quarterly, to the Attorney General and the President on its findings.

(V) Report in a timely manner to the Attorney General and to the President any activities that raise serious questions about legality.

(VI) Report in a timely manner to the President any activities that raise serious questions about propriety.

(B) Inspectors general and general counsels within the intelligence community shall:

(1) Transmit to the oversight board reports of any activities that come to their attention that raise questions of legality or propriety.

(2) Report periodically, at least quarterly, to the oversight board on its findings concerning questionable activities, if any.

(3) Provide to the oversight board all information requested about activities within their respective department or agencies.

(4) Report to the oversight board any occasion on which they were directed not to report any activity to the oversight board by their agency or department heads.

(5) Formulate practices and procedures designed to discover and report to the oversight board activities that raise questions of legality or propriety.

(C) Heads of intelligence agencies or departments shall:

(1) Report periodically to the oversight board of any activities of their organizations that raise questions of legality or propriety.

(2) Instruct their employees to cooperate fully with the oversight board.

(3) Ensure that inspectors general and general counsels of their agency have access to any information necessary to perform their duties assigned by [a later paragraph] of this section.

(D) The Attorney General shall:

(1) Receive and consider reports from the oversight board.

(2) Report periodically, at least quarterly, to the President with respect to activities of the intelligence community, if any, which raise questions of legality.

(E) The oversight board shall receive staff support. No person who serves the staff of the oversight board shall have any contractual or employment relationship with any department or agency in the intelligence community.

(F) The President's Foreign Intelligence Advisory Board established by executive order No. 11460 of March 20, 1969, remains in effect.

Secrecy Protection

(A) IN order to improve the protection of sources and methods of intelligence, all members of the executive branch and its contractors given access to information

containing sources of methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(B) IN the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(C) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(3) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to promulgate rules and regulations to expand the scope of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence material.