

EXTENDING THE INTELLIGENCE IDENTITIES PROTECTION ACT OF 1982

SYNOPSIS:

The Intelligence Identities Protection Act of 1982 (IIPA) amended the National Security Act of 1947 to allow for the prosecution of individuals who intentionally disclose the identities of covert intelligence officers, identified as “covert agents,” serving outside of the United States. The IIPA narrowly defined “covert agent” as an officer or employee of an intelligence agency whose identity as such is classified and who is serving outside of the United States or has within the last five years served outside of the United States. In the report that accompanied the IIPA, the Senate Judiciary Committee explained that “covert agent” was defined in this way primarily because of the threat of physical danger when the identities of officers serving abroad are revealed. Thirty-seven years later, the threats undercover Agency officers face are evolving and are no longer limited to those officers who are serving abroad or have done so recently. This proposed amendment would extend the IIPA’s protections by allowing for the prosecution of individuals responsible for disclosing the identities of undercover intelligence officers, wherever in the world they serve.

PROPOSED TEXT:

SEC. XXX. EXTENDING THE INTELLIGENCE IDENTITIES
PROTECTION ACT OF 1982.

Section 605(4) of the National Security Act of 1947 (50 U.S.C. 3126(4)) is amended—

(a) in subparagraph (A)—

(1) by striking clause (ii);

(2) in clause (i), by striking “, and” and inserting “; or”; and

(3) by striking “agency—” and all that follows through “whose identity” and inserting “agency whose identity”; and

(b) in subparagraph (B)(i), by striking “resides and acts outside the United States” and inserting “acts”.

SECTION ANALYSIS:

This proposal extends the definition of “covert agent” in the National Security Act of 1947 (as amended by the IIPA) to all undercover intelligence officers, not just those serving outside of the United States within the past five years. It also removes a similar geographic restriction on the protections for U.S. citizens whose intelligence relationship to the United States is classified. These changes make it explicit that any undercover Agency officer, regardless of location in the world, is a “covert agent” who qualifies for protection.

LINE-IN/LINE-OUT:

50 U.S.C. § 3126 -- Definitions

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(4) The term ‘covert agent’ means—

(A) a present or retired officer or employee of an intelligence agency or a present or retired member of the Armed Forces assigned to duty with an intelligence agency—

~~(i) whose identity as such an officer, employee, or member is classified information, and~~ **[; or]**

~~(ii) who is service outside of the United States or has within the last five years served outside the United States; or~~

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who ~~resides and acts outside the United States~~ **[acts]** as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigations; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

JUSTIFICATION:

Undercover Agency officers face ever-evolving threats, including cyber threats. Particularly with the lengths organizations such as WikiLeaks are willing to go to obtain and release sensitive national security information, as well as incidents related to past Agency programs, such as the RDI investigation, the original congressional reasoning mentioned above for a narrow definition of “covert agent” no longer remains valid. This proposal would provide protection for all undercover Agency officers by allowing for the prosecution of individuals responsible for disclosing the identities of those officers, regardless whether the undercover officer serves inside or outside of the United States.