

1 SEPTEMBER 1997



Intelligence

**CONGRESSIONAL NOTIFICATION
PROCEDURES**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

NOTICE: This publication is available digitally on the SAF/AAD WWW site at: <http://afpubs.hq.af.mil>. If you lack access, contact your Publishing Distribution Office (PDO).

OPR: HQ USAF/XOI (Maj Jack Jones/Capt
Troy Thomas)

Certified by: HQ USAF/XOII (Mr Dennis H.
Alvey)

Pages: 6

Distribution: F

This instruction establishes procedures and guidelines and defines responsibility within the Air Force for notifying the appropriate congressional committees on intelligence matters having significant operational or acquisition consequences for the United States Air Force. It implements guidance from the National Security Act of 1947, as amended, Title 50, United States Code, Section 413 et seq. (Subchapter III-Accountability for Intelligence Activities); the Director of Central Intelligence (DCI) memorandum dated 30 Jun 1995; the Deputy Secretary of Defense (C3I) memorandum dated 2 April 1996; and the Office of Congressional Affairs/Central Intelligence Agency memorandum dated 8 March 1996..

This AFI applies to all active duty, Air Force Reserve, Air National Guard, and civilian Air Force personnel.

Section A—Scope

1. Application of Congressional Reporting Procedures . This instruction applies to all elements and components of the USAF. The information contained within does not supersede or modify Secretary of the Air Force/Legislative Liaison (SAF/LL) instructions or regulations.

1.1. This instruction does not countermand or modify intelligence oversight laws, regulations, and reporting requirements nor does it supersede or modify governing documentation which concern USAF Intelligence functions and responsibilities.

Section B—Criteria

2. Issues will be considered for congressional notification if they fall within one of the following categories:

2.1. Intelligence matters with significant operational or acquisition consequences for the United States Department of Defense or the USAF to include:

- 2.1.1. The intelligence concerned supports a judgment that a substantial change has occurred in the capabilities of, vulnerabilities to, and/or threats to U.S. operations or systems.
- 2.1.2. The intelligence concerned would likely affect a decision of Congress.
- 2.1.3. The intelligence would likely warrant a substantial redistribution of or reorientation of program resources (dollars or people), to include important programmatic developments (e.g., major cost overrun, termination of contract, etc.)
- 2.2. Matters deemed to be a “significant anticipated intelligence activity” for statutory reporting purposes.
- 2.3. Any significant intelligence failure.
- 2.4. Highly significant intelligence developments pertaining to foreign activities.
- 2.5. Allegations of illegal intelligence activities.
- 2.6. Matters likely to be diplomatically damaging or embarrassing, or publicly controversial.
- 2.7. Allegations of significant misconduct by an employee or asset; including human rights violations or criminal acts.
- 2.8. Matters likely to be reported in the press (U.S. or foreign).
- 2.9. Issues that cut across community organizations.

Section C—Discussion

3. Efficient notification of Congress . This instruction is intended to ensure efficient notification of Congress concerning intelligence matters having significant operational or acquisition consequences for the United States Air Force or the Department of Defense. It is recognized that the question of whether an intelligence matter requires congressional notification can involve ambiguities, and thus ultimately relies on the requirement to exercise informed judgment.

- 3.1. The terms “congressional committees or “committees” include, but are not limited to, all intelligence oversight committees, the Chairman and Ranking Minority Members of the committees, members of the committees, Staff Directors and Minority Staff Directors, and their designated and appropriately cleared staff.
- 3.2. Regarding specific committee notification, the HPSCI and SSCI will be notified for items covered under the National Security Act of 1947, as amended, and the DCI memorandum, dated 30 Jun 95 (Refs a & c). The HNSC, SASC, HAC, SAC, HPSCI and SSCI will be notified for items covered under the DepSecDef memorandum, dated 6 May 96 (Ref b).

Section D—Procedures/responsibilities

4. HQ USAF/XO.

- 4.1. Provides recommendation for Congressional notification on critical intelligence matters.
 - 4.1.1. When the Air Force Director of Intelligence, Surveillance, and Reconnaissance (AF/XOI) becomes aware of an intelligence matter meeting the criteria as set forth in section B, he/she shall, in coordination with Secretary of the Air Force Office of Legislative Liaison (SAF/LL), determine

when and which relevant committees should be informed of the intelligence matter, or recommend other appropriate disposition. AF/XOI will forward this recommendation through the AF/XO to the CSAF and the SECAF for a final decision.

4.1.2. When AF/XOI makes a recommendation to inform Congressional committees, it will always be done with SAF/LL, and in appropriate circumstances, the Air Force Comptroller. AF/XOI will include in the recommendation a suggested timing of the notification and which specific committees or officials should be notified. SAF/LL will coordinate with the DoD focal point for coordination, the Office of the Assistant Secretary of Defense/Legislative Affairs (ASD/LA), to ensure that the Secretary of Defense is appropriately appraised.

4.2. If SECAF determines that notification of Congress is warranted, AF/XOI (as appropriate), will ensure coordination with, or notification of, all appropriate Department of Defense and Intelligence Community officials prior to notifying Congress. These officials include, but are not limited to, the following, or their designees:

4.2.1. Director of Central Intelligence, Office of Congressional Affairs.

4.2.2. Assistant Secretary of Defense (C3I).

4.2.3. Deputy Assistant Secretary of Defense (I&S).

4.2.4. Director, Defense Intelligence Agency.

4.2.5. Director, National Security Agency.

4.2.6. Director, National Imagery and Mapping Agency.

4.2.7. Director, National Reconnaissance Office.

4.3. For matters regarding vulnerabilities of a major component of the operational force structure or major acquisition program, coordination and notification will be accomplished in accordance with ref b.

4.4. AF/XOI is responsible for maintaining all documentation generated by this instruction including written notification documents and copies of appropriate coordination.

5. SAF/LL.

5.1. Implements recommended notification of Congress on critical intelligence matters.

5.1.1. Contingent upon the nature of the activity, SECAF, or designated representative (e.g., SAF/LL), will verbally notify the committee chairman and ranking members as soon as possible after discovery. Verbal notification will always be preceded by coordination with the SECDEF and the DCI.

5.1.2. As soon as can be achieved, written notification of the intelligence matter will follow the verbal notification. A SAF/LL representative will hand deliver the written notification to the committees via staff directors and minority staff directors.

5.2. SAF/LL shall maintain copies of notification letters, a brief synopsis of the report issued, and a list of Congressional members and staff notified.

6. MAJCOMs, Office of the Air Force Reserve, Director of the ANG, FOAs and Direct Reporting Units (DRU).

6.1. All subordinate Air Force offices will immediately report to AF/XOI any issues that meet the aforementioned criteria. However, only AF/XOI must retain copies of referenced documents.

Section E—Review Policy

7. Annual Review . Because Congressional reporting is an evolving process, SAF/LL, in conjunction with ASD/LA, will conduct an annual review of Air Force Intelligence notification practices. These reviews will serve to ensure that AF/XO’s notification procedures are kept current and in accordance with Intelligence Community, Executive, and Legislative Branch expectations.

JOHN P. JUMPER, Lt Gen, USAF
Deputy Chief of Staff for Air and Space Operations

Attachment 1

GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS AND TERMS

References

NOTE: The user of this instruction is responsible for verifying the currency of the cited documents.

- a. Office of Congressional Affairs/Central Intelligence Agency memorandum, dated 8 Mar 96, subject: "Intelligence Community Congressional Reporting Guidance."
- b. Deputy Secretary of Defense memorandum, dated 2 Apr 96, subject: Congressional Reporting Guidance
- c. Director of Central Intelligence (DCI) memorandum, dated 30 Jun 1995, subject: "Congressional Notification."
- d. National Security Act of 1947, as amended, Title 50, United States Code, Section 413 et seq. (Subchapter III-Accountability for Intelligence Activities).

Abbreviations and Acronyms

- AF/XO**—Deputy Chief of Staff, Air and Space Operations
AF/XOI—Director of Intelligence, Surveillance and Reconnaissance
C3I—Command, Control, Communications & Intelligence
CIA—Central Intelligence Agency
CSAF—Chief of Staff, Air Force
DCI—Director, Central Intelligence
DepSecDef—Deputy Secretary of Defense
E.G.—For example
ETC—Et cetera, a number of other things or persons unspecified
HAC—House Appropriations Committee
HNSC—House National Security Committee
HPSCI—House Permanent Select Committee on Intelligence
ASD/LA—Assistant Secretary of Defense/Legislative Affairs
SAC—Senate Appropriations Committee
SAF/LL—Secretary of the Air Force/Legislative Liaison
SASC—Senate Armed Services Committee
SECAF—Secretary of the Air Force
SECDEF Secretary of Defense
SSCI—Senate Select Committee on Intelligence
U.S.—United States

USAF—United States Air Force