

# HPSCI WRITES STERNLY- WORDED LETTER REPORT ON JSOC ACTIVITIES

Steven Aftergood catches the House Intelligence Committee bitching about the Defense Department conducting covert operations under the guise of "Operational Preparation of the Environment," and thereby avoiding any oversight over those activities.

The Committee notes with concern the blurred distinction between the intelligence-gathering activities carried out by the Central Intelligence Agency (CIA) and the clandestine operations of the Department of Defense (DOD). Congress chartered the Committee for the purpose of conducting oversight of all intelligence activities of the U.S. Government, including all programs funded under both the National Intelligence Program and the Military Intelligence Program.

In categorizing its clandestine activities, DOD frequently labels them as "Operational Preparation of the Environment" (OPE) to distinguish particular operations as traditional military activities and not as intelligence functions. The Committee observes, though, that overuse of this term has made the distinction all but meaningless. The determination as to whether an operation will be categorized as an intelligence activity is made on a case-by-case basis; there are no clear guidelines or principles for making consistent determinations. The Director of National Intelligence himself has acknowledged that there is no bright line between traditional intelligence missions carried out by the military and

the operations of the CIA.

Clandestine military intelligence-gathering operations, even those legitimately recognized as OPE, carry the same diplomatic and national security risks as traditional intelligence-gathering activities. While the purpose of many such operations is to gather intelligence, DOD has shown a propensity to apply the OPE label where the slightest nexus of a theoretical, distant military operation might one day exist. Consequently, these activities often escape the scrutiny of the intelligence committees, and the congressional defense committees cannot be expected to exercise oversight outside of their jurisdiction.

This recalls something Sy Hersh has reported on—in which CIA partnered with JSOC to destabilize Iran, but only CIA activities were included in a finding (and therefore briefed to Congress).

But the scale and the scope of the operations in Iran, which involve the Central Intelligence Agency and the Joint Special Operations Command (JSOC), have now been significantly expanded, according to the current and former officials. Many of these activities are not specified in the new Finding, and some congressional leaders have had serious questions about their nature.

[snip]

Senior Democrats in Congress told me that they had concerns about the possibility that their understanding of what the new operations entail differs from the White House's. One issue has to do with a reference in the Finding, the person familiar with it recalled, to potential defensive lethal action by

U.S. operatives in Iran. (In early May, the journalist Andrew Cockburn published elements of the Finding in *Counterpunch*, a newsletter and online magazine.)

The language was inserted into the Finding at the urging of the C.I.A., a former senior intelligence official said. The covert operations set forth in the Finding essentially run parallel to those of a secret military task force, now operating in Iran, that is under the control of JSOC. Under the Bush Administration's interpretation of the law, clandestine military activities, unlike covert C.I.A. operations, do not need to be depicted in a Finding, because the President has a constitutional right to command combat forces in the field without congressional interference. But the borders between operations are not always clear: in Iran, C.I.A. agents and regional assets have the language skills and the local knowledge to make contacts for the JSOC operatives, and have been working with them to direct personnel, matériel, and money into Iran from an obscure base in western Afghanistan. As a result, Congress has been given only a partial view of how the money it authorized may be used. One of JSOC's task-force missions, the pursuit of "high-value targets," was not directly addressed in the Finding. There is a growing realization among some legislators that the Bush Administration, in recent years, has conflated what is an intelligence operation and what is a military one in order to avoid fully informing Congress about what it is doing.

"This is a big deal," the person familiar with the Finding said. "The C.I.A. needed the Finding to do its traditional stuff, but the Finding does

not apply to JSOC. The President signed an Executive Order after September 11th giving the Pentagon license to do things that it had never been able to do before without notifying Congress. The claim was that the military was 'preparing the battle space,' and by using that term they were able to circumvent congressional oversight. Everything is justified in terms of fighting the global war on terror." He added, "The Administration has been fuzzing the lines; there used to be a shade of gray"—between operations that had to be briefed to the senior congressional leadership and those which did not—"but now it's a shade of mush."

In other words, the language in the Committee Report appears to speak directly of this practice from Bush—to claiming that covert ops that look an awful lot like intelligence activity is actually intended to "prepare the battle space"—all to elude Congressional oversight.

But HPSCI doesn't seem all that worried about it. As Aftergood points out, HPSCI issues a rather weakly-worded threat to legislative if DOD continues the practice.

Based on recent discussions, the Committee is hopeful that DOD will be more fulsome in its reporting. In the future, if DOD does not meet its obligations to inform the Committee of intelligence activities, the Committee will consider legislative action clarifying the Department's obligation to do so.

Shorter HPSCI: "Mr. Former Spook guy working for Obama? Don't use Dick Cheney's tricks to freelance!! Or we'll, we'll, we'll, we'll legislate."

Tough stuff coming from Congress, as always.