

SENATE INTELLIGENCE BILL AIMS TO LABEL WIKILEAKS — AND MAYBE THE JOURNALISTS WHO LOOK LIKE THEM — SPOOKS

I'm reading the draft Senate Intelligence Authorization for 2018; in a follow-up, I will lay out why it is a remarkably useful bill, particularly in the way it addresses vulnerabilities identified in the wake of the Russian efforts to tamper with our election.

But there is a major point of concern, one which led Senator Ron Wyden to vote against the bill in committee. Attached to a must-pass bill, it holds that it is the sense of Congress that WikiLeaks resembles a non-state hostile intelligence service.

SEC. 623. SENSE OF CONGRESS ON WIKILEAKS.

It is the sense of Congress that WikiLeaks and the senior leadership of WikiLeaks resemble a non-state hostile intelligence service often abetted by state actors and should be treated as such a service by the United States.

In explaining his opposition to the provision, Wyden laid out all the unintended consequences that might come from labeling WikiLeaks a hostile intelligence service. "My concern is that the use of the novel phrase 'non-state hostile intelligence service' may have legal, constitutional, and policy implications, particularly should it be applied to journalists inquiring about secrets," stated Senator Wyden.

“The language in the bill suggesting that the U.S. government has some unstated course of action against ‘non-state hostile intelligence services’ is equally troubling. The damage done by WikiLeaks to the United States is clear. But with any new challenge to our country, Congress ought not react in a manner that could have negative consequences, unforeseen or not, for our constitutional principles. The introduction of vague, undefined new categories of enemies constitutes such an ill-considered reaction.”

Wyden has a point. If WikiLeaks is treated as an intelligence service, for example, then anyone having extensive conversations with them can be targeted for surveillance. Any assistance someone gives – like donations – can be deemed a potential criminal violation. And a lot of people who access and support Wikileaks because of the content it publishes may be deemed suspect.

Wyden did find other things in the bill to praise, including three things he sponsored, two of them explicitly tied to the Russian threat:

1. A report on the threat to the United States from Russian money laundering. The amendment calls on intelligence agencies to work with elements of the Treasury Department’s Office of Terrorism and Financial Intelligence, such as the Financial Crimes Enforcement Network (FinCEN), to assess the scope and threat of Russian money laundering to the United States.
2. Requires Congressional notification before the establishment of any U.S.-

Russia cybersecurity unit, including a report on what intelligence will be shared with the Russians, any counterintelligence concerns, and how those concerns would be mitigated.

3. A report from the Intelligence Community on whether cyber security vulnerabilities in the U.S. cell network, including known vulnerabilities to SS7, are resulting in foreign government surveillance of Americans. The report follows on a study by the Department of Homeland Security that found major, widespread weaknesses in U.S. mobile networks.

But he nevertheless voted against the bill to register his concerns about the new label for WikiLeaks.

The WikiLeaks language would sure make it harder for Trump to exchange information with Julian Assange in exchange for a pardon. But tacking this onto such an otherwise useful bill seems like a bad idea.