

VETO MESSAGE ON H.R. 2082

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF THE VETO OF H.R. 2082, THE "INTELLIGENCE
AUTHORIZATION ACT FOR FISCAL YEAR 2008"



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To the House of Representatives:

I am returning herewith without my approval H.R. 2082, the “Intelligence Authorization Act for Fiscal Year 2008.” The bill would impede the United States Government’s efforts to protect the American people effectively from terrorist attacks and other threats because it imposes several unnecessary and unacceptable burdens on our Intelligence Community.

Section 444 of the bill would impose additional Senate confirmation requirements on two national security positions—the Director of the National Security Agency and the Director of the National Reconnaissance Office. The National Commission on Terrorist Attacks Upon the United States (9/11 Commission) observed that the effectiveness of the Intelligence Community suffers due to delays in the confirmation process; section 444 would only aggravate those serious problems. Senior intelligence officials need to assume their duties and responsibilities as quickly as possible to address the pressing requirements of national security. Instead of addressing the 9/11 Commission’s concern, the bill would subject two additional vital positions to a more protracted process of Senate confirmation. Apart from causing such potentially harmful delays, this unwarranted requirement for Senate confirmation would also risk injecting political pressure into these positions of technical expertise and public trust.

Section 413 would create a new Inspector General for the Intelligence Community. This new office is duplicative and unnecessary. Each intelligence community component already has an Inspector General, and the Inspector General of the Office of the Director of National Intelligence has been vested with all the legal powers of any inspector general to carry out investigations on matters under the jurisdiction of the Director of National Intelligence. There is no reason to commit taxpayer resources to an additional inspector general with competing jurisdiction over the same intelligence elements. Creating duplicative inspectors general, who may have inconsistent views on the handling of particular matters, has the potential to create conflicts and impede the Intelligence Community from efficiently resolving issues and carrying out its core mission. In addition, the creation of a new inspector general would add yet another position in the Intelligence Community subject to Senate confirmation, contrary to the 9/11 Commission’s recommendations.

Section 327 of the bill would harm our national security by requiring any element of the Intelligence Community to use only the interrogation methods authorized in the Army Field Manual on Interrogations. It is vitally important that the Central Intelligence Agency (CIA) be allowed to maintain a separate and classified interrogation program. The Army Field Manual is directed at guiding the actions of nearly three million active duty and reserve military personnel in connection with the detention of lawful combatants

during the course of traditional armed conflicts, but terrorists often are trained specifically to resist techniques prescribed in publicly available military regulations such as the Manual. The CIA's ability to conduct a separate and specialized interrogation program for terrorists who possess the most critical information in the War on Terror has helped the United States prevent a number of attacks, including plots to fly passenger airplanes into the Library Tower in Los Angeles and into Heathrow Airport or buildings in downtown London. While details of the current CIA program are classified, the Attorney General has reviewed it and determined that it is lawful under existing domestic and international law, including Common Article 3 of the Geneva Conventions. I remain committed to an intelligence-gathering program that complies with our legal obligations and our basic values as a people. The United States opposes torture, and I remain committed to following international and domestic law regarding the humane treatment of people in its custody, including the "Detainee Treatment Act of 2005."

My disagreement over section 327 is not over any particular interrogation technique; for instance, it is not over waterboarding, which is not part of the current CIA program. Rather, my concern is the need to maintain a separate CIA program that will shield from disclosure to al Qaeda and other terrorists the interrogation techniques they may face upon capture. In accordance with a clear purpose of the "Military Commissions Act of 2006," my veto is intended to allow the continuation of a separate and classified CIA interrogation program that the Department of Justice has determined is lawful and that operates according to rules distinct from the more general rules applicable to the Department of Defense. While I will continue to work with the Congress on the implementation of laws passed in this area in recent years, I cannot sign into law a bill that would prevent me, and future Presidents, from authorizing the CIA to conduct a separate, lawful intelligence program, and from taking all lawful actions necessary to protect Americans from attack.

Other provisions of the bill purport to require the executive branch to submit information to the Congress that may be constitutionally protected from disclosure, including information the disclosure of which could impair foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. Section 326, for example, would require that the executive branch report, on a very short deadline and in accordance with a rigid set of specific statutory requirements, the details of highly classified interrogation techniques and the confidential legal advice concerning them. The executive branch voluntarily has provided much of this information to appropriate members of Congress, demonstrating that questions concerning access to such information are best addressed through the customary practices and arrangements between the executive and legislative branches on such matters, rather than through the enactment of legislation.

In addition, section 406 would require a consolidated inventory of Special Access Programs (SAPs) to be submitted to the Congress. Special Access Programs concern the most sensitive information maintained by the Government, and SAP materials are maintained

separately precisely to avoid the existence of one document that can serve as a roadmap to our Nation's most vital information. The executive branch must be permitted to present this information in a manner that does not jeopardize national security. The executive branch will continue to keep the Congress appropriately informed of the matters to which the provisions relate in accordance with the accommodation principles the Constitution contemplates and the executive and legislative branches have long and successfully used to address information sharing on matters of national security.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 8, 2008.*

