

4/25
1700



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

OFFICE OF THE
SECRETARY OF DEFENSE

2005 APR 25 2005 11:54

INFO MEMO

Paul Butler
4/26
PUB

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II *WJH*

SUBJECT: The Logan Act

- You indicated (~~Tab A~~) that someone had mentioned to you that the Logan Act prohibits people from conducting foreign policy unless authorized by the President, and asked that I look into the matter.
- Title 18, U.S. Code, Section 953, the Logan Act (originally enacted in 1799), provides for criminal sanctions against a U.S. citizen who, on his own accord, engages a foreign government regarding a matter in dispute between the foreign government and the United States. The key Logan Act language is as follows:

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined under this title or imprisoned not more than three years, or both.

- Informal coordination with Department of Justice indicates:
 - there has never been a prosecution under the Act, although there have been occasions in recent history where investigation into individuals' contacts with foreign governments were considered; and
 - a prosecution under the Act might raise First Amendment issues.

Coordination: None

MA SP	4/26	SMA DSD	
TSA SD	4/25	SA DSD	
EXEC SEC	M4/25	1730	
ESR MA	LSV	4/25/05	1501



OSD 07712-05