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Financial Disclosure: Should We Let CIA Agents Lie?

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During the second week of April, the House is scheduled to consider H.R. 1, a measure calling for comprehensive governmental financial disclosure. Yet, H.R. 1, officially entitled the Ethics in Government Act, ironically—and unacceptably—gives the intelligence community the legal right to lie.

In commenting on the bargain struck between former Central Intelligence Agency director Richard Helms and the Justice Department, President Carter said, "A public official does not have a right to lie." Attorney General Bell said of the same case, "It sets the intelligence community out on a new course."

Despite those commendable statements of principle, the administration, through the CIA, delivered a letter to my House Judiciary subcommittee requesting in one sentence that the subcommittee authorize the CIA to lie to the public and to Congress. Without any testimony to justify that extraordinary action, the subcommittee agreed.

The contradiction between the "new course" for the intelligence community hailed by the administration and the legal right to lie it subsequently requested of Congress could not be more striking.

H.R. 1 requires a complete financial disclosure by some 20,000 high-ranking federal employees and their spouses and dependents.

Under the bill, most of those employees must file annual reports making public such information as source and amount of income; source, value and description of gifts given and received; value and identity of personal and real property; and certain liabilities and business relationships.

Refusal to file reports—or the intentional reporting of false information—exposes an employee to criminal penalties of up to $10,000 in fines, and imprisonment for up to one year.

In a concession to the intelligence agencies, the bill contains a provision that would allow the president to exempt from public disclosure any financial reports filed by an intelligence agent. The provision is designed to protect an intelligence agent working under the cover of being an employee of a nonintelligence agency of the federal government.

The writer, a member of the House Judiciary and Intelligence committees, is a Democratic representative from Kentucky.

However, this "cover" provision clearly was not satisfactory to the CIA. The agency requested that the president additionally be authorized to allow an intelligence agent to disclose to the public a false financial report.

Under the CIA's proposal, agents would file truthful reports with the president and disclose false information to the public for cover purposes. No one would be allowed to examine the true reports or to challenge the president's decision to allow the false disclosure.

There was neither public nor closed-session testimony to justify the granting of that exception. The CIA's one-sentence request stands alone in justification of the provision.

The CIA did meet with me and my staff to discuss its proposal. However, the offer of that meeting was made after my subcommittee had agreed to the proposal and after the CIA learned that I intended to challenge the provision in full committee.

From my meeting with the CIA I gather the agency justifies the false-disclosing provision because it facilitates placing intelligence agents in top posts in nonintelligence federal agencies.

Such an exception may not be cause for alarm with a president, an attorney general and a CIA director who do not believe public officials have an inherent right to lie. They guarantee the disclosure exception will be infrequently and judiciously exercised.

But persons with vastly different attitudes could succeed to those positions. They might not be prudent or watchful in the exercise of the disclosure exemption. That could easily lead to executive branch abuse of the Constitutional rights of American citizens.

It would be unforgivably ironic if a provision of a financial-disclosure bill—held out to be an ethical reform and aimed at restoring public confidence—were to lay the groundwork for a return to executive abuses.

The false-report language also contradicts Carter's statement in transmitting this proposed legislation to Congress: "The American people must be assured that no one, regardless of position, is above the law."

Further, there are policy reasons to question an unrestrained CIA use of other governmental agencies for cover. Previous revelations of CIA use of the Peace Corps and State Department as "cover" organizations have damaged the credibility of those agencies in many countries and limited their ability to perform their missions successfully.

To grant such blanket exemption without careful testimony and serious congressional debate is not responsible lawmaking.

The House should remove the false-reports language from H.R. 1. Then the CIA and its associates in the intelligence community should be requested to come before the House and Senate intelligence committees to justify—if that is possible—the need for such an exemption and to offer feasible alternatives.

One alternative would be to require those committees to consider all requests for the right to publish false financial reports and to review annually the need for that provision.

Another alternative would allow falsifying only the salary and the employing agency of an intelligence agent. A third option would be to limit the life of the exemption to three years. Its extension would depend upon our experience with it.

The House has a choice to make. It can permit—under the guise of ethical reform—a step backward in its efforts to correct past intelligence excesses and abuses.

Or, as I hope it will do, it can send a powerful and assuring message to the nation that no public official has a right to lie and none will be permitted to do so.

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