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Approved For Release 2005/07/13 : CIA-RDP77M00144R001100150033-1

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Chief, Review Staff, OP
626 C of C

EXTENSION

NO.

DATE

12 August 1975

STAT

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

EA/OP

5 E 58, Hqs.

14 AUG 1975

X P

Per your request we've read the attached draft letter on the Congressional proposals to require Federal Employees to file Financial Statements with the Comptroller General. Wonder if the Congress has any idea of how many people are in that \$18,000 to \$20,000 range? Federal Register will be swamped, which might take care of the privacy aspect. Seriously, I think the draft a good one. . . the pertinent legal objections are covered. . . Privacy Act, FOI, EO 11222, et al. Not sure I would take the approach here on the matter of open listings making CIA employees vulnerable to opposition activity, but I agree it could be a matter of some concern, and CIA Act of 1949 offers valid sanctuary.

I do think the strength of the opposition to all these Bills lies in the invasion of privacy (i.e. the publication), and the existence of conflict of interest laws and the requirement to report under E.O. 11222.

STAT

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15.

2- We agree with the comments of our Chief, Review Staff as stated above.

STAT

FORM
3-62

610

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Legislative Counsel

EXTENSION

☐

NO.

DATE

7 August 1975

STAT

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Office of Personnel
5E13 HQ

11 AUG 1975

PAC

2. C / Review

3.

4. DIPAs

5.

C / SP2

6.

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The attached draft letter was prepared in hopes of deterring Congressional action on a number of bills requiring certain Federal employees to file financial statements with the Comptroller General. These statements would be available to the general public. Also attached is one of the 25 or so similar bills on the subject. Please review the letter. Let me have your comments by 20 August. Thank you.

Assistant Legislative Counsel

-2- Mary

_____ would appreciate your views of the we will ask C.R.D. Thanks.

Suzanne - 15 Aug 75

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DRAFT:DFM:sk (7 Aug 75)

Honorable Peter W. Rodino, Jr., Chairman
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Numerous bills before the Committee on the Judiciary require Federal employees, including certain employees of the Central Intelligence Agency, to file annual statements with the Comptroller General regarding their financial position. A listing of these bills, introduced prior to 1 July, is an appendix to this letter. The most inclusive of these bills require statements from all Federal employees earning in excess of \$18,000 per year. Many would require the statement to include:

- (a) the amount and source of each item of income or gift exceeding \$100 in value;

- (b) the value of each asset held by the employee solely or jointly with a member of his family;

- (c) the amount of each liability owned by the employee solely or jointly with a member of his family;

- (d) all dealings in securities or commodities; and

- (e) all purchases and sales of real property.

The Comptroller General is directed to prescribe the form and detail required of the reports, which shall be available to the public under regulations promulgated by the Comptroller General. Willfully failing to file a report or willfully filing a false report will subject an employee to a potential penalty of five years imprisonment and a \$10,000 fine.

Federal employees are subject to several federal laws governing conflict of interest (18 U.S.C. 202, 203, 205, 207, 208, and 209). In addition, executive branch employees, including certain employees of the Central Intelligence Agency, are subject to Executive Order 11222 (dated 8 May 1965) "Prescribing Standards of Ethical Conduct For Government Officers and Employees [As Amended], and regulations issued by the Civil Service Commission and individual agencies pursuant to E. O. 11222.

These regulations require statements on financial holdings by high-level officers, and other employees at the GS-13 or above level who "are responsible for making a Government decision or taking a Government action in regard to: (1) contracting or procurement, (2) administering or monitoring grants or subsidies, (3) regulating or auditing private or other non-Federal enterprise, or (4) involved in activity where the decision or action has an economic impact on the interests of a non-Federal enterprise." 5 C.F.R. §735.403 (1974). The statements are held strictly confidential. The bills before the Judiciary Committee would require statements from many more employees than are required to file statements under the Executive Order. I believe the breadth of these bills is much broader than is required to satisfy their purposes. The responsibilities of a large percentage of the employees of this Agency earning in excess of \$18,000 annually, for example, have no economic impact whatsoever on the interests of any non-Federal enterprise. Moreover, the requirement in these bills of public availability of the financial statements would constitute a tremendous invasion of the personal privacy of Federal employees.

The 93rd Congress adopted in its closing days the "Privacy Act of 1974" (P.L. 93-579), which comprehensively regulates the collection, use, and dissemination by Federal agencies of personal information on American citizens or permanent resident aliens. Two of the congressional findings which prompted the bill are:

- "the right of privacy is a personal and fundamental right protected by the Constitution of the United States; "
- [and]
- "the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies"

The Freedom of Information Act (5 U.S.C. 552) also recognizes that individuals have the right to have personal information remain confidential. Section (b)(6) of the Act exempts "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" from the general disclosure requirements of the Act.

I believe the personal privacy of Federal employees deserves protection, just as does the privacy of other citizens. Favorable congressional action on these bills, and the wide breach of personal privacy inherent in them, would amount to a complete reversal of congressional sentiment expressed in the Privacy Act of 1974, and would nullify the protections of this Act for tens or hundreds of thousands of Federal employees. Furthermore, the bills before the Committee ignore another basic tenet of the Privacy Act, one requiring Federal agencies to

"collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, ... and that adequate safeguards are provided to prevent misuse of such information"

[section 2(b)(4)] .

Although the bills are designed to provide a mechanism to prevent or identify conflicts of interest or corrupt practices, the availability of these deeply-personal records to the general public will inevitably result in their misuse for a wide variety of purposes, from credit investigations to simply the satisfaction of malicious curiosity.

These bills would create distinctive problems for the management and personnel of the Central Intelligence Agency. CIA employees have daily access to highly sensitive information, information which would be extremely valuable to hostile foreign intelligence services, and for which foreign services have, and would offer large sums of money. Every year, numerous attempts are made by foreign intelligence services to recruit Agency employees. The disclosure of the financial status of all CIA employees would only point out to opposition services which employees, because of their financial status, might be more vulnerable. Congress acted to protect CIA employees from these pressures when it enacted section 6 of the CIA Act of 1949 (50 U.S.C. 403g). This section states:

"In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of ... any ... law which require[s] the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency"

This section has been interpreted not to apply prospectively, so that CIA would not be exempt under section 6 from any enactment by the current Congress requiring financial disclosure by Federal employees.

Mr. Chairman, I oppose the legislation before the Judiciary Committee requiring disclosure of the financial position of large numbers of Federal employees. I believe the bills are much broader than required to satisfy their purposes, and I object to the massive invasion of personal privacy which these bills entail. If such legislation is favorably considered, I request that CIA employees, because of the extreme sensitivity of their assignments, not be included within the scope of the bill.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director

Appendix Attached

Bills Before the Committee on the Judiciary
Requiring Federal Employees to File A Financial
Statement with the Comptroller General
94th Congress

H.R. 110	H.R. 4740
H.R. 929	H.R. 4909
H.R. 2053	H.R. 5034
H.R. 2359	H.R. 5249
H.R. 2684	H.R. 5250
H.R. 2685	H.R. 5251
H.R. 2926	H.R. 5516
H.R. 3249	H.R. 5877
H.R. 3250	H.R. 6362
H.R. 3756	H.R. 6943
H.R. 3788	H.R. 7238
H.R. 4636	H.R. 7876
H.R. 4686	

94TH CONGRESS
1ST SESSION

H. R. 929

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. RINALDO introduced the following bill; which was referred to the Committees on the Judiciary and Standards of Official Conduct

A BILL

To promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Financial Dis-
4 closure Act of 1975".

5 SEC. 2. (a) The President, the Vice President, each
6 Member of Congress, each officer and employee of the United
7 States (including any member of a uniformed service) who
8 is compensated at a rate in excess of \$25,000 per annum, and
9 any individual occupying the position of an officer or em-
10 ployee of the United States who performs duties of the type
11 generally performed by an individual occupying grade GS

1 16 of the General Schedule or any higher grade or position,
2 as determined by the Federal Election Commission, re-
3 gardless of the rate of compensation of such individual, shall
4 file annually, and each individual who is a candidate of a
5 political party in a general election for the office of a Mem-
6 ber of Congress but who, at the time he becomes a candidate,
7 does not occupy any such office, shall file within one month
8 after he becomes a candidate for such office, with the Fed-
9 eral Election Commission a report containing a full and com-
10 plete statement of—

11 (1) the amount and source of each item of income,
12 each item of reimbursement for any expenditure, and
13 each gift or aggregate of gifts from one source (other
14 than gifts received from his spouse or any member of
15 his immediate family) received by him or by him and
16 his spouse jointly during the preceding calendar year
17 which exceeds \$100 in amount or value, including any
18 fee or other honorarium received by him for or in con-
19 nection with the preparation or delivery of any speech
20 or address, attendance at any convention or other as-
21 sembly of individuals, or the preparation of any article
22 or other composition for publication, and the monetary
23 value of subsistence, entertainment, travel, and other
24 facilities received by him in kind:

25 (2) the identity of each asset held by him, or

1 by him and his spouse jointly which has a value in
2 excess of \$1,000, including the amount of principal of
3 any trust or estate from which he or he and his spouse
4 jointly receive any income, regardless of whether he or
5 he and his spouse jointly exercise any control over
6 administration or disposition of such trust or estate
7 and the amount of each liability owed by him or by him
8 and his spouse jointly, which is in excess of \$1,000 as
9 of the close of the preceding calendar year;

10 (3) any transactions in securities of any business
11 entity by him, or by him and his spouse jointly, or by
12 any person acting on his behalf or pursuant to his direc-
13 tion during the preceding calendar year if the aggregate
14 amount involved in transactions in the securities of such
15 business entity exceeds \$1,000 during such year;

16 (4) all transactions in commodities by him, or by
17 him and his spouse jointly, or by any person acting on
18 his behalf or pursuant to his direction during the pre-
19 ceding calendar year if the aggregate amount involved in
20 such transactions exceeds \$1,000; and

21 (5) any purchase or sale, other than the purchase
22 or sale of his personal residence, of real property or any
23 interest therein by him, or by him and his spouse jointly,
24 or by any person acting on his behalf or pursuant to his
25 direction, during the preceding calendar year if the value

1 of property involved in such purchase or sale exceeds
2 \$1,000.

3 (b) Reports required by this section (other than re-
4 ports so required by candidates of political parties) shall be
5 filed not later than May 15 of each year. In the case of any
6 person who ceases, prior to such date in any year, to occupy
7 the office or position the occupancy of which imposes upon
8 him the reporting requirements contained in subsection (a)
9 shall file such report on the last day he occupies such office
10 or position, or on such later date, not more than three months
11 after such last day, as the Federal Election Commission may
12 prescribe.

13 (c) Reports required by this section shall be in such
14 form and detail as the Federal Election Commission may
15 prescribe. The Federal Election Commission may provide
16 for the grouping of items of income, sources of income,
17 assets, liabilities, dealings in securities or commodities, and
18 purchases and sales of real property, when separate itemiza-
19 tion is not feasible or is not necessary for an accurate dis-
20 closure of the income, net worth, dealing in securities and
21 commodities, or purchases and sales of real property of any
22 individual.

23 (d) Any person who willfully fails to file a report re-
24 quired by this section, or who knowingly and willfully files a

14 false report under this section, shall be fined \$2,000, or
15 imprisoned for not more than five years, or both.

16 (e) All reports filed under this section shall be main-
17 tained by the Federal Election Commission as public records
18 which, under such reasonable regulations as he shall pre-
19 scribe, shall be available for inspection by members of the
20 public.

21 (f) For the purposes of any report required by this
22 section, an individual shall be considered to have been Presi-
23 dent, Vice President, a Member of Congress, an officer or
24 employee of the United States, or a member of a uniformed
25 service, during any calendar year if he served in any such
14 position for more than six months during such calendar year.

15 (g) As used in this section—

16 (1) The term “income” means gross income as defined
17 in section 61 of the Internal Revenue Code of 1954.

18 (2) The term “security” means security as defined in
19 section 2 of the Securities Act of 1933, as amended (15
20 U.S.C. 77b).

21 (3) The term “commodity” means commodity as de-
22 fined in section 2 of the Commodity Exchange Act, as
23 amended (7 U.S.C. 2).

24 (4) The term “transactions in securities or commodi-
25 ties” means any acquisition, holding, withholding, use,

1 transfer, or other disposition involving any security or com-
2 modify.

3 (5) The term "Member of Congress" means a Senator,
4 a Representative, a Resident Commissioner, or a Delegate.

5 (6) The term "officer" has the same meaning as in
6 section 2104 of title 5, United States Code.

7 (7) The term "employee" has the same meaning as in
8 section 2105 of such title.

9 (8) The term "uniformed service" means any of the
10 Armed Forces, the commissioned corps of the Public Health
11 Service, or the commissioned corps of the National Oceanic
12 and Atmospheric Administration.

13 (9) The term "immediate family" means the child, par-
14 ent, grandparent, brother, or sister of an individual, and the
15 spouses of such persons.

16 SEC. 3. Section 554 of title 5, United States Code, is
17 amended by adding at the end thereof the following new
18 subsection:

19 "(f) All written communications and memorandums
20 stating the circumstances, source, and substance of all oral
21 communications made to the agency, or any officer or em-
22 ployee thereof, with respect to any case which is subject to
23 the provisions of this section by any person who is not an
24 officer or employee of the agency shall be made a part of the
25 public record of such case. This subsection shall not apply

7

1 to communications to any officer, employee, or agent of the
2 agency engaged in the performance of investigative or prose-
3 cuting functions for the agency with respect to such case.”

4 EFFECTIVE DATE

5 SEC. 4. The first report required under this Act shall
6 be due on the 15th day of May occurring at least thirty days
7 after the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 929

A BILL

To promote public confidence in the legislative,
executive, and judicial branches of the Gov-
ernment of the United States.

By Mr. RINALDO

JANUARY 14, 1975
Referred to the Committees on the Judiciary and
Standards of Official Conduct