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DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

23 July 1985

MEMORANDUM FOR: Director of Central Intelligence

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VIA: Deputy Director of Central Intelligence
Director, Intelligence Community Staff
Deputy Director, Intelligence Community Staff

FROM:

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Chairman

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SUBJECT: Unauthorized Disclosures of Classified Information (U)

REFERENCE: A. Memo to DCI dtd 10 Jul 85, Subj: Unauthorized
Disclosures of Classified Intelligence
B. C/SECOM memo dtd 18 Apr 85, Subj: Talking Points
for NSPG

1. Action Requested: None. This memorandum updates reference A (attached) and forwards a printout from the Unauthorized Disclosure Analysis Center's leak register. (C)

2. Reference B (attached) provided talking points for NSPG discussion of unauthorized disclosures along with several examples of specific leaks to show the relationship between leaks and the damage or risk they caused. A more

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23 July 1985

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Prepared by: SECOM/  23 Jul 85

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DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM-D-190

10 July 1985

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MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence
Director, Intelligence Community Staff
Deputy Director, Intelligence Community Staff

FROM:

Chairman

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SUBJECT: Unauthorized Disclosures of Classified Information

1. Action Requested: None. This memorandum responds to EA/DCI requirement for information for DCI use in an NSPG on leaks.

2. Discussion: The 29 November 1984 memorandum from the DCI to the Assistant to the President for National Security Affairs (Attachment A) provides an appropriate basis for an NSPG discussion on leaks. It represents the consensus of the SIG/I and is available to Mr. McFarlane and the NSC Staff. The leak situation has not changed dramatically since the memorandum was written. The climate of public opinion about actions detrimental to the national security, however, may be more favorable to doing something about leaks of classified information.

3. The following comments are keyed to paragraph numbers in the 29 Nov 84 memo to Mr. McFarlane.

Para. 3 - Presidential leadership remains essential. He must obtain the wholehearted personal support of his senior officials in this effort.

Para. 4 - An "up front" statement of the problem and the need for a solution would defuse possible media charges of an illegal plumber-type operation.

Para. 5 - Although a commission takes time, it may be the best way to publicize the problem and generate public support of solutions.

Para. 6 - A meeting with media officials is unlikely to change anybody's mind-set. The only value of such a meeting would lie in maintaining an above-board posture. Media coverage could be expected to emphasize negative aspects of anti-leak efforts.

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SUBJECT: Unauthorized Disclosures of Classified Information

Para. 7 - Control of disclosures is the most difficult problem--how to require officials to coordinate before discussing classified information with the media. Judge Webster's 29 Nov 84 memorandum (Attachment B) points out that no one has the authority to disclose classified information unless he has the authority to declassify it. It also would require positive action and reporting on leaks by senior officials. Accountability must be established before anything can be done about unauthorized disclosures.

Para. 8 - Those responsible for protecting classified information must be held accountable and appropriate sanctions enforced. This is the root cause of leaks--no acceptance of responsibility and no need for concern about penalties for violating responsibilities.

Para. 9 - Cleared officials must be required to make their revelations to the media on official government business a matter of record. The public has a right to know what its employees say to the press--especially if they are revealing classified information.

Para. 10 - Those who violate a requirement to make press contacts a matter of record would be in violation of Administration policy and liable to penalty for that.

Para. 11 - There is no reason to give the press unrestricted access to areas or buildings which are closed to the public. A press pass need not be a license to intrude upon sensitive activities or information.

Para. 12 - Officials being interviewed by the press should benefit from expert advice on what is or is not classified.

Para. 13 - Not only must investigations be initiated more promptly, they must be directed at determining the source of the leak. Current efforts all too often seem to be intended to show (a) that dissemination of the leaked information was too broad to permit successful investigation and (b) that there is no evidence to prove the leak occurred in the agency conducting the investigation. The SSCI Staff claims to have a list of leak investigations which were terminated when they appeared to be on the verge of identifying the leaker. While authorities for investigations appear adequate, resources devoted to investigations generally are meager and investigative efforts often seem to be perfunctory.

Para. 14 - Leaking is a consensual crime known only to the leaker and the leakee, in most cases. Use of the polygraph offers the most effective, and in some cases the only, way to identify the leaker.

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SUBJECT: Unauthorized Disclosures of Classified Information

4. The problem of unauthorized disclosures transcends departmental boundaries. Yet we continue to use an approach to the detection of leakers that is almost wholly dependent upon the initiative of individual departments and agencies. If all agencies cannot act with reasonable uniformity and vigor to counteract the loss of classified information, a centrally managed approach may be required. A senior level interagency review group to study media interface and investigative procedures in each department or agency might provide recommendations on how to achieve a government-wide approach to remedying leaks of classified information.

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Attachment:

- A. Memo to Mr. McFarlane fm DCI dtd 29 Nov 84
- B. Memo to DCI fm Judge Webster dtd 29 Nov 84

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The Director of Central Intelligence

Washington, D.C. 20505

29 NOV 1984

MEMORANDUM FOR: Assistant to the President for National Security Affairs

SUBJECT: Proposals for Consideration re Dealing with the
Unauthorized Disclosure of Classified Information

1. Following upon the NSPG meeting of 16 November, and my meeting with the PFIAB on 19 November, in which the subject of leaks was a major topic of discussion, I convened a special Senior Interagency Group (Intelligence) (SIG-I) meeting on 20 November to discuss what steps might be taken to deal with the situation; one that has clearly gotten out of control.

2. During the SIG-I meeting there was a wide ranging discussion of potential actions that might be taken in order to maintain security and protect sources and methods. The paragraphs that follow set forth the views of the SIG-I on specific steps that could be taken under eight broad categories. These are provided for your consideration at a future NSC/NSPG meeting.

Presidential Initiative

3. Charge to Senior Officials. The SIG-I agreed with Judge Webster's proposal that the President should make clear to his top officials the importance of protecting classified information, charge them with the responsibility for taking effective action to prevent any such unauthorized disclosure, and require periodic reports from them on steps taken and problems encountered. First, the President could use a Cabinet meeting to make his views and expectations known. Subsequently, at a meeting of all Presidential appointees (which he has tended to hold annually), he could make clear what he has asked the Cabinet to do and what he expects of everyone serving in his Administration.

4. Public Statement. A Presidential statement, in an appropriate forum, should also be considered. Such a statement would focus on the serious problems caused by the disclosure of classified information, the actions directed by the President, and emphasize the fact that these steps were taken, not with any intention to stifle the news media or freedom of speech, but to ensure that those with a responsibility to protect the nation's secrets and its sources and methods do so.

5. Presidential Commission. This, too, was discussed by the SIG-I as a possible way to dramatize further both the extent of the problem and the intention to deal with it. It could be achieved by appointing a bipartisan blue ribbon panel to investigate the nature and effect of the disclosure of classified information, and report its findings to the President.

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6. Conference with News Media Officials. Such a meeting, involving the President and senior media executives to solicit their cooperation in protecting classified information, was discussed. The SIG-I felt such a step was risky, could back fire and lead to charges of Administration attempts to stifle freedom of the press; nevertheless, it is an option.

Control of Disclosures

7. In spite of considerable discussion on the inherent difficulties in dealing with the utterances of public officials, the SIG-I was in agreement that some mandatory procedures are needed for the coordination of any public statement that might be based on, or contain, classified information. General Stilwell advised that there is a procedure used by DoD in vetting proposed statements by OSD officials with the Intelligence Community. At present, however, this procedure is neither well known nor mandatory; nevertheless, it, or something like it, can provide the basis for a Presidential policy that the President can implement and announce to the Cabinet, making it both government-wide and mandatory.

8. It was also agreed that, concomitant with the establishment of such a procedure, there must clearly stated, and well understood, sanctions for noncompliance.

Media Relations

9. While acknowledging the need for government officials to talk to the press, the SIG-I agreed that regulation of contacts between government employees and the media is needed to help control unauthorized disclosures. Since current regulatory requirements are extremely uneven among departments and agencies, there was agreement with Judge Webster that a common policy of recording media contacts and topics discussed should be adopted. In doing so, however, it must be clear that such a policy is directed at government employees, not the media.

10. Centralized Control of Press Contacts. Government-wide regulations should be established that require personnel cleared for classified intelligence to centrally record with their agencies all press contacts, including dates and the identities of media representatives.

11. Press Access. The SIG-I, while recognizing that press access varies among departments and agencies, noted there is no reason for such access to be greater than that afforded the general public.

12. Media Interviews. Another option considered by the SIG-I was to have government employees who are cleared for access to sensitive intelligence obtain approval for media interviews in advance. When it is anticipated that such interviews might involve or derive from classified information, consideration should be given to having a knowledgeable public affairs or security officer present, and a record of the interview maintained.

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Investigations

13. Initiation. The SIG-I agreed with Judge Webster that promptness in initiating investigations of unauthorized disclosures is critical in order to allow for immediate and vigorous investigation, whether it results in prosecution or administrative action. Referral of cases to the FBI must be expedited. The delays engendered by internal investigations by departments and agencies and by responding to Justice Department inquiries on individual cases frequently allows months to elapse. Judge Webster stressed that, in order to be effective, the FBI investigation must be initiated approximately one week after the leak occurs. An investigation should be conducted only when classified information is identifiable in a news story. Existing authorities for unauthorized disclosure investigations appear to be adequate.

14. Polygraph. The SIG-I views the polygraph as a useful investigative tool in unauthorized disclosure cases. The use of the polygraph, however, requires both firm policy guidelines and strict operational procedures and oversight of examiner personnel. Further, it should be used only in cases involving the most serious unauthorized disclosures of classified information and/or intelligence sources and methods, and its use should be confined to contacts and circumstances relevant to that investigation. The purpose of using the polygraph is to guide the investigation and to suggest areas for inquiry; it is not to be the determinant of guilt or innocence. Decisions regarding culpability reside with appropriate officials who must consider all pertinent, available information.

15. Analytic Center. I have ordered the establishment of an Unauthorized Disclosures Analysis Center in the DCI Security Committee. Procurement of data processing equipment and establishment of reporting channels has already begun. There was SIG-I agreement that the creation of such a center to compile and analyze data on unauthorized disclosures involving classified information would be of great help to individual departments and agencies in leak investigations. This facility will compile up-to-date information on unauthorized disclosures, provide data for use in conducting investigations and for raising awareness of the scope and seriousness of the unauthorized disclosure problem, and assist in early referral of investigations to appropriate departments and agencies.

Legal

16. PFIAB Initiative. The SIG-I considered, and generally approved, a PFIAB proposal that, in selected cases involving the most serious risk to our national security, diplomacy or sources and methods, a newsman who publishes unauthorized disclosures of classified information should be brought before a federal grand jury, given immunity and ordered to identify the source of the classified information. The reporter and his publisher would be fined daily until the source's identity is revealed. The PFIAB proposal emphasizes that the target of the grand jury inquiry is not the reporter or the media, but the cleared individual who has

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violated his written contract not to reveal classified information. A novel feature of the PFIAB proposal is that, rather than make a martyr of the reporter by sending him to jail for contempt, it would impose a fine on him and on the corporation employing him. Edward Bennett Williams and Leo Cherne will brief the Attorney General on this proposal on 30 November.

Dissemination

17. Recent initiatives for administrative controls were endorsed by the SIG-I for broader application. These include: ongoing review and reduction of the dissemination of classified material; greater use of "read and return" procedures; [redacted] sensitive documents; stricter follow-up on controlled materials; and the [redacted]

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18. Need-to-know. The SIG-I recognized that adherence to the need-to-know principle has apparently eroded; this could be revitalized in the President's charge to his Cabinet and other appointees. An intensive effort throughout the government is needed to ensure understanding of the President's desire that the need-to-know principle be enforced. The SIG-I also feels that there should be a specific prohibition on the retention of classified material by former officials who have left the government.

Education

19. The SIG-I agreed that a program of intensified security education is needed at all levels, emphasizing individual responsibility and the potential damage resulting from unauthorized disclosures. Every medium available should be utilized, including live briefings, videotapes, posters, etc. The effort to change the prevailing attitude that leaks are a way of life must be strong, unrelenting and carefully crafted to emphasize the responsibility of cleared people to keep the secrets they have agreed to protect. The allocation of significant resources to this task is essential. The enthusiastic cooperation of all departments and agencies in the program will be indispensable.

Legislation

20. The SIG-I agreed that, regardless of whether their purpose is to aid a foreign power, individuals who publicly reveal classified information should be subject to a law that makes their breach of trust a criminal act. Congressional initiatives to develop such legislation should be encouraged and supported.


William J. Casey



U.S. Department of Justice

Federal Bureau of Investigation

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Office of the Director

Washington, D.C. 20535

November 29, 1984

Executive Registry

84-9822

Honorable William J. Casey
Director of Central Intelligence
Washington, D.C.

Dear Bill:

Enclosed as you requested is suggested draft language for inclusion in a list of proposals for controlling leaks as developed at the SIG-I November 20, 1984, meeting. The consensus was clear from the meeting that under the category of Presidential initiatives, a speech without action would produce very little except concerns and criticism from the press; that a commission would take too long; that a meeting with the media would likely be unproductive and misconstrued; and that the most significant Presidential initiative would be for the President to call in his own people and place specific responsibility on them to take internal steps to deal with the problem. In that vein, you asked me to prepare some suggested language, which you will find enclosed.

Under the category of investigations, you included the use of polygraphs. If that area is developed, I adopt Mary Lawton's suggestion that rather than use the term "suspects" we refer to "persons who are or who have become a logical focus" for investigation. *ys*

Best regards,

Sincerely,

William H. Webster
Director

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The President has promulgated NSDD-19 and NSDD-84 and has personally conveyed his concerns to his Cabinet officers and agency heads. To date this has not produced any serious internal effort to control the unauthorized dissemination of classified information.

To produce this needed specific effort, it is recommended that the President personally place responsibility on his departmental heads and key White House officials and direct each of them to report to him in writing within a stated time period on what specific measures have been implemented within the respective departments to control the unauthorized outflow of classified information.

The personal responsibility of the department heads should be underscored. It should be made clear that no one in the Administration has authority to disclose classified information unless that person also has the authority to declassify such information and makes an appropriate record of his action. When violations occur, department heads must insist upon immediate and full cooperation with the Department of Justice.

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SECOM-D-190 (Unauthorized Disclosures of Classified Information)

Prepared by: SECOM, [REDACTED] 10 July 85

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DIRECTOR OF CENTRAL INTELLIGENCE

Security Committee

18 April 1985

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence
Director, Intelligence Community Staff
Deputy Director, Intelligence Community Staff

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FROM:


Chairman

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SUBJECT: Talking Points for NSPG

Attached are proposed remarks for use by the DCI at the forthcoming
NSPG. There probably are more examples than are needed, to permit selection
of cases the DCI considers best.

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Attachment: a/s

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DCI REMARKS FOR NSPG

THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION TO THE NEWS MEDIA IS A PROBLEM WHICH HAS PLAGUED THE LAST EIGHT ADMINISTRATIONS. THE SITUATION SHOWS NO SIGNS OF IMPROVING, AND ACTUALLY GIVES EVERY INDICATION OF DETERIORATING.

IF THE PROBLEM WERE EASY TO SOLVE, IT WOULD HAVE BEEN SOLVED LONG AGO. IT IS, IN FACT, EXCEEDINGLY DIFFICULT, WITH IMPLICATIONS TO FREEDOM OF THE PRESS AND THE GOVERNMENT'S BASIC FUNCTION OF PROVIDING FOR THE COMMON DEFENSE. ANY EFFORT TO ENHANCE PROTECTION OF CLASSIFIED INFORMATION WILL BE ATTACKED IN THE PRESS AND POSES A SUBSTANTIAL POLITICAL RISK.

NEVERTHELESS, I BELIEVE THE GOVERNMENT SHOULD ACT NOW TO CORRECT A SITUATION WHICH THREATENS THE VERY VIABILITY OF THE INTELLIGENCE SERVICES OF THE UNITED STATES. AN INTELLIGENCE SERVICE WHICH CANNOT MAINTAIN SECRECY ABOUT ITS ACTIVITIES AND THE INFORMATION IT GATHERS FAILS TO MEET THE MOST BASIC REQUISITE OF AN INTELLIGENCE SERVICE. I BELIEVE THE U.S. INTELLIGENCE AGENCIES ARE ABLE TO MEET THIS REQUIREMENT, BUT THE BROAD DISSEMINATION OF INTELLIGENCE PRODUCTS AND WIDE KNOWLEDGE OF OPERATIONS CREATE SECURITY VULNERABILITIES THAT MUST BE ADDRESSED. OUR MILITARY AND DIPLOMATIC SECRETS ARE EQUALLY VULNERABLE. WE ARE BEING DAMAGED BY GROSS AND WILLFUL TRANSGRESSIONS OF A SECURITY SYSTEM WHICH IS VIOLATED WITH IMPUNITY.

WHY SHOULD ANYONE BE PENALIZED FOR LEAKING TO THE PRESS? IT'S A TIME HONORED CUSTOM AND EVERYONE KNOWS THAT A FEW CLASSIFIED ITEMS CAST TO THE MEDIA CAN RETURN GREAT BENEFITS TO THE CASTER. I'LL TELL YOU WHY--BECAUSE IT

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TELLS OUR ADVERSARIES WHAT WE KNOW AND HOW WE KNOW IT, PROVIDES THEM WITH WAYS TO KEEP US FROM KNOWING MORE, AND PLACES THEM IN A POSITION TO DECEIVE US IN OUR INTELLIGENCE GATHERING EFFORTS. ALTHOUGH THE DIRECT CAUSE AND EFFECT RELATIONSHIP BETWEEN LEAKS AND DAMAGE OR RISK OF DAMAGE IS RARELY OBVIOUS, ONLY A HOPELESSLY NAIVE PERSON WOULD DENY IT EXISTS.

LET ME TELL YOU ABOUT SOME CASES WHERE THE LINK IS FAIRLY APPARENT.

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THIS LITANY OF LEAKS SHOULD BE ENOUGH TO CONVINCE MOST PEOPLE THAT LEAKS CAUSE DAMAGE. WE APPEAR TO BE APPROACHING ANARCHY IN THE WIDESPREAD DISREGARD OF SECURITY BY CLEARED PEOPLE. FORMER DCI JAMES SCHLESINGER SAYS A BREAKDOWN OF DISCIPLINE IN THE GOVERNMENT AND IN OUR SOCIETY AT LARGE UNDERLIES THE PROLIFERATION OF LEAKS. THERE ARE INDICATIONS THE BREAKDOWN IS ACCELERATING.

IN WHAT MAY BE THE ONLY EFFORT TO DATE TO ESTABLISH THE NATURE AND SCOPE OF THE LEAK PROBLEM, MY SECURITY COMMITTEE IDENTIFIED 285 PUBLICATIONS OF CLASSIFIED INTELLIGENCE BETWEEN 1978 AND 1983. THE ANNUAL NUMBER OF DISCLOSURES ROSE FROM 43 TO 85 DURING THE FIVE YEAR PERIOD AND THE NUMBER OF PUBLISHERS AND BROADCASTERS ENGAGED IN PRINTING LEAKS ALSO INCREASED. THE ELAPSED TIME BETWEEN PUBLICATION OF A CLASSIFIED INTELLIGENCE REPORT AND ITS PUBLICATION SHOWED A DECREASE. SINCE OCTOBER 1983, MORE THAN 140 REPORTS OF INTELLIGENCE LEAKS HAVE BEEN RECEIVED. THE PROBLEM IS NOT GOING AWAY.

THIS IS NOT EXCLUSIVELY AN INTELLIGENCE PROBLEM, ALTHOUGH DAMAGE TO INTELLIGENCE ACTIVITIES THROUGH LEAKS IS PROBABLY MORE SEVERE. THERE IS

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AN URGENT NEED TO RESCUE OUR SECURITY FROM THIS CHAOTIC STATE AND RESTORE RESPECT FOR OUR SYSTEM OF PROTECTING SECRETS.

THIS PROBLEM NEEDS A TOP-DOWN SOLUTION. EXPERIENCE HAS SHOWN THAT ISSUING NSDD'S AND PRESIDENTIAL LETTERS TO ALL FEDERAL EMPLOYEES HAVE NO MEASURABLE IMPACT ON THE SITUATION. THE MOST COMMON BELIEF ABOUT LEAKS IS, AS ADMIRAL INMAN RECENTLY TOLD THE PRESS, THAT LEAKS CAN BE DEALT WITH "BY FIRING A FEW VERY SENIOR PEOPLE AT THE TOP OF GOVERNMENT, WHICH IS WHERE THE BULK OF THE DAMAGING LEAKS OCCUR IN ANY CASE."

THE SIG/I RECOMMENDED IN NOVEMBER 1984 THAT THE PRESIDENT ADVISE HIS CABINET AND OTHER TOP OFFICIALS THEY WILL BE HELD PERSONALLY RESPONSIBLE FOR CLASSIFIED LEAKS TO THE PRESS AND REQUIRE REPORTS ON THEIR POSITIVE EFFORTS TO COMBAT LEAKS. THE REASON WHY THE LEAK PROBLEM HAS BECOME SO ACUTE IS THAT NOBODY FEELS OBLIGED TO DO ANYTHING ABOUT IT EXCEPT DECRY MEDIA IRRESPONSIBILITY. IF WE MEET OUR SECURITY RESPONSIBILITIES, WE WON'T HAVE TO WORRY ABOUT THE MEDIA.

FOR ADDITIONAL ACTION PROPOSALS ON UNAUTHORIZED DISCLOSURES, I REFER YOU TO THE SIG/I MEMORANDUM SENT TO THE NSC ON 29 NOVEMBER 1984.

A KEY FACTOR, IN MY OPINION, WOULD BE PASSAGE BY THE CONGRESS OF A LAW CRIMINALIZING UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION. USE OF THE ESPIONAGE ACT TO PROSECUTE LEAKERS IS LEGALLY FEASIBLE, BUT IS UNNECESSARILY COMPLICATED. ENACTMENT OF A LAW PENALIZING CLEARED INDIVIDUALS WHO FAIL TO MEET THEIR SECURITY OBLIGATIONS WOULD DRAMATIZE THE WILL OF THE CONGRESS IN ADDITION TO THE EXECUTIVE BRANCH'S

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DETERMINATION TO HALT THE PERNICIOUS PRACTICE OF REVEALING VITAL SECRETS
FOR PERSONAL SATISFACTION.

IT IS CLEAR THAT A UNIFIED POSITION ON UNAUTHORIZED DISCLOSURES IS
NEEDED. UNLESS WE CAN DISPLAY THE WILL TO ACT DECISIVELY ON THIS ISSUE,
IT WILL CONTINUE TO POSE A THREAT TO THE NATIONAL SECURITY OF THE UNITED
STATES.

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[redacted] 18 April 1985

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Prepared by: SECOM [redacted] 18 Apr 85

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