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Q.&A.: Richard K. Willard of the Justice Department

'Necessary Secrets' vs. the Public's Right to Know

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WASHINGTON, Oct. 24 — The Reagan Administration's campaign to stop unauthorized disclosures of national security secrets has come under attack from members of Congress, former officials, journalists and others who say that the means chosen do violence to the national traditions of free speech and open debate.

Much criticism has been focused on a national security decision directive issued by President Reagan March 11. One provision, which the Senate voted last week to block until April, requires more than 100,000 officials who handle especially sensitive intelligence secrets to sign agreements submitting to Government censorship for the rest of their lives. Another provision calls for vastly expanded use of polygraph tests to ferret out leakers and spies.

Richard K. Willard, a 35-year-old Deputy Assistant Attorney General, is the chief architect of these initiatives. Mr. Willard, a graduate of Harvard Law School who was a clerk for Associate Justice Harry A. Blackmun of the Supreme Court, discussed the issues in a recent interview. Here are excerpts.

Q. To some people this system of censorship and polygraph testing conjures visions of George Orwell's "1984." What's the justification?

A. The purpose of the Administration's program is to protect classified information from unauthorized disclosure. There are certain kinds of information that would cause serious damage to our country if that information became known publicly.

There's obviously a need to strike a balance between protecting necessary secrets and the public's right to know. In our view, though, over the last decade, the balance has swung too far in the direction of letting information become public, including some very sensitive information about intelligence activities. Our ability to conduct necessary intelligence activities has been severely compromised.

Q. Can you give one or two examples of harm that has been done through unauthorized leaks of classified information?

A. Examples of this are classified themselves. But, for example, if it comes out that we have a particular intelligence operation under way that was intended to remain secret, then it becomes much easier for our adversaries to take countermeasures.

Q. Does your censorship system sacrifice an important element of free speech out of concern for national security?

A. The agreement we've proposed would only require officials to submit things that they write about intelligence matters. Officials are free to write about anything else that they wish without prepublication review. In addition, the only officials who are covered are officials who have access to the most sensitive kinds of intelligence. We think the importance of protecting this very sensitive information outweighs the disadvantages that it may have for the employees.

Q. Would not the prepublication review system allow the officials of one administration to censor the writings of their predecessors?

A. There's a safeguard here — judicial review. If material is submitted for review and we try to take something out, we have to prove in court that every word we want to delete is classified, and properly classified.

Q. How do you answer critics who have suggested that each step further in this direction of censorship obscures the differences between the free society that we have and Soviet society, for example?

A. That sort of claim is absolutely ridiculous. Our proposal is a very moderate safeguard. Many free societies have much more severe restrictions. For example, Great Britain has the Official Secrets Act, which is much more rigorous than anything we have ever proposed. I think that critics who make that kind of accusation have absolutely no sense of proportion in viewing these issues.

The First Amendment is very important but there are other national interests as well, and the Supreme Court has recognized that First Amendment rights are not absolute. There is no First Amendment right for Government employees to disclose classified information without authorization.

Q. Is it a crime to publish or disclose classified information?

A. In most cases it is certainly a potential criminal violation.

Q. Experts say that using polygraph tests to screen large numbers of people may falsely brand innocent people as liars more often than such an approach catches guilty people. Would you dispute this, or, if not, how would you justify it?

A. Certainly the polygraph is not perfectly reliable. For that reason no action will be taken solely on the basis of polygraph examination results. Even so, there is some room for error that could be harmful to the employee. But for this very small number of highly sensitive positions, we think the national security interest outweighs the risk of harm to the individual employee and justifies the program. Our policy is to limit use of the polygraph to a very small number of very sensitive jobs. We oppose the use of the polygraph on a general basis in the Government.

I think we would all prefer to live in a world where we did not have to have intelligence agencies or be concerned about potential foreign adversaries, but that is not the case. Our goal is to protect as best we can that information without causing any unnecessary harm to the values of openness that we all share.

Q. Are you concerned about the possibility that some highly qualified people who object in principle to being censored or to polygraph testing might hesitate to join the Government?

A. These security requirements have been in place at the C.I.A. and other intelligence agencies for many years. We have proposed to extend some of these requirements to other people in the Government who have access to the same kind of sensitive classified information. We think that people who want to go to work for the Government in the area of national security and who have access to our country's most sensitive secrets must appreciate the need to take careful security precautions.

Q. Is there anything you'd like to add?

A. We have no desire to cut down on the flow of unclassified information to the press and public. We think that our policy represents a reasonable balance of the competing interests, but we do consider the protection of properly classified information to be a basic responsibility of the Government, and one that we intend to live up to.

Stuart Taylor Jr.