



UNCLASSIFIED

Date: 07/09/98 (Regulations may contain various dates)

Category: 7 - Management

OPR: OGC

Title: AN 7-2-1 EMPLOYEE COMMUNICATIONS WITH CONGRESS

This Notice Expires 1 August 1999

MANAGEMENT

AN 7-2-1
9 July 1998

EMPLOYEE COMMUNICATIONS WITH CONGRESS

1. This Agency has an obligation to ensure that any possible violation of federal criminal law by employees or violation of certain federal criminal laws by anyone else is reported to the Department of Justice (DoJ). In addition, the Agency must report to the Congressional Intelligence Committees any illegal intelligence activity, as well as any corrective action taken or planned. There are formal processes for informing Congress and DoJ of illegal activities.

2. Notwithstanding the existence of these formal processes, employees may sometimes believe it appropriate or necessary to personally inform Congress of illegal or improper activities. The Agency stands ready to facilitate this direct communication with Congress. However, a concern has been expressed that there are no procedures in place that employees can follow to bring their concerns directly to the attention of Congress.

3. To address this problem, the DCI has approved the attached procedures to ensure that employees have a mechanism to report to Congress their concerns about illegal or improper activities in a secure manner and that the disclosures are consistent with our legal obligations to protect vital national security, law enforcement or foreign affairs interests. These procedures will also ensure that allegations regarding illegal or improper activities are brought to the attention of the Inspector General for review and possible investigation. I want to assure you that you have my commitment, the commitment of the DCI, and the commitment of senior Agency management that employees who follow these procedures will be protected from any adverse personnel action as a result of making the disclosure to Congress.

4. Employees who have questions regarding these procedures for reporting information to Congress should contact the Deputy Director of Congressional Affairs on [redacted], the Principal Deputy General Counsel on [redacted] or the Deputy Inspector General for Investigations on [redacted] (b)(3)
(b)(3)
(b)(3)

5. This information will be incorporated into AR 7-2.

/s/
David W. Carey
Executive Director

Attachment

This notice was prepared by the Office of General Counsel, [redacted] (secure). (b)(3)

EMPLOYEE COMMUNICATIONS WITH CONGRESS

1. This notice sets forth procedures to be followed in the reporting of urgent concerns to Congress by employees of the CIA.

2. For purposes of this Agency Notice, the term "urgent concern" means (1) a serious or flagrant problem, abuse, violation of law or Executive Order, or deficiency relating to the administration or operations of an intelligence activity; (2) any false statements made to Congress on an issue of material fact; or (3) an action constituting reprisal or threat of reprisal in response to an employee reporting to Congress an urgent concern pursuant to this regulation.

3. Employees are reminded that procedures for reporting urgent concerns to Congress are in addition to their obligations to report criminal activity or illegal intelligence activities. Those procedures are set forth in [redacted] The DCI also has a responsibility to report illegal intelligence activities to the Intelligence Committees. (b)(3)

4. Employees who wish to report an urgent concern to Congress may do so by contacting the Deputy Director of Congressional Affairs, the Principal Deputy General Counsel, or the Deputy Inspector General for Investigations. (These officials are referred to as "designated officials" in this Agency Notice.) Employees shall furnish one of these designated officials with a statement describing the urgent concern they intend to communicate to Congress. These designated officials shall provide the employee with instructions for reporting the matter to Congress. These designated officials, in appropriate consultation with other Agency officials, shall also make the determination on whether the information the employee wants to report to Congress is classified.

5. If the information related to the urgent concern is classified, or if the employee making the report is under cover, the information may only be reported to the House Permanent Select Committee on Intelligence (HPSCI) or the Senate Select Committee on Intelligence (SSCI), and the report shall be made in accordance with appropriate security practices. Employees may send classified written communications through the designated officials to the Intelligence Committees, or they may be authorized by the designated official to speak directly to Members or appropriately cleared staff of the Intelligence Committees without a CIA representative present. In certain instances, the designated official may advise that the communication must be limited to particular staffers cleared for the information or to the Chairman/Ranking Minority Member of the HPSCI or the Chairman/Vice Chairman of the SSCI. Employees are reminded that the reporting of classified information under these rules and procedures does not constitute public disclosure or declassification of that information.

6. If the information related to the urgent concern is not classified, and the employee is

overt, the information related to the urgent concern may be reported to the HPSCI or SSCI, to the employee's congressional representatives, to any other Member or Committee of Congress, or to all of the above. The reporting of unclassified information to Congress does not constitute public disclosure of that information.

7. The Agency will not, except in rare circumstances, restrict the passage of information related to an urgent concern. Only the Director of Central Intelligence may prevent an employee from disclosing an urgent concern to Congress and only if such a disclosure would jeopardize vital national security, law enforcement or foreign affairs interests. The designated officials shall bring to the DCI's attention urgent concerns that may in their judgment implicate vital national security, law enforcement or foreign affairs interests so that the DCI can make a determination on whether the urgent concern can be reported to the Congress. If the DCI prevents the disclosure of an urgent concern to Congress, he will promptly inform the Intelligence Committees of the exercise of that authority. The DCI thereafter will conduct a periodic review of the determination to prevent a disclosure of an urgent concern to confirm whether the factors justifying that determination continue to pertain. The DCI will allow the employee to report the urgent concern to Congress as soon as it is no longer necessary to prevent such disclosure to protect vital national security, law enforcement or foreign affairs interests. The DCI may consult with appropriate senior officials in the Executive Branch prior to making a determination to prevent the disclosure of an urgent concern on grounds that it would jeopardize vital law enforcement, national security or foreign affairs interests.

8. Employees who seek to report urgent concerns to Congress may request confidentiality. If the report is made through the Inspector General, the Inspector General has a duty under law not to disclose the identity of the employee who made the report without the consent of the employee unless the Inspector General determines that such disclosure is unavoidable during the course of an investigation of the urgent concern or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken. If the report is made through the Office of Congressional Affairs (OCA) or the Office of General Counsel (OGC), the identity of the employee who has requested confidentiality will only be disclosed to those in OCA or OGC who have a need to know, to the DCI or DDCI, to the Inspector General, or to senior officials at another government agency that have a need to know the identity of the employee in the performance of an official function.

9. When a report of an urgent concern is made through the OCA or OGC, the report will be referred to the Inspector General for review. A report of an urgent concern to Congress shall not be delayed because the Inspector General has not completed that review.

10. The Inspector General has a legal obligation to report immediately to the DCI whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses or deficiencies related to the administration of programs and operations. The DCI has an obligation to transmit the report to the HPSCI or SSCI within seven calendar days. The definition of an urgent concern as set forth in this Agency Notice is broader than the reporting requirement imposed by law upon the Inspector General and the DCI. As a matter of policy, the DCI has decided to expand this reporting requirement to cover all matters defined as an urgent concern in

this Agency Notice that an employee seeks to bring to the attention of Congress. This means that the Inspector General shall evaluate those urgent concerns that an employee intends to report to Congress and shall report immediately to the DCI on those urgent concerns that the Inspector General has determined to be credible. This report will be transmitted by the DCI, with appropriate comments, to the HPSCI and SSCI within seven calendar days.

11. Employees who follow these procedures for reporting urgent concerns to Congress will not be punished for having made such disclosures. Management will not take or threaten to take an adverse action, or withhold or threaten to withhold a favorable action, as a result of an employee making or preparing to make a disclosure of an urgent concern to Congress in compliance with these procedures. The only exception to this prohibition is if a determination is made that the report of the urgent concern involved an intentional misstatement by the employee concerned.

12. If the employee wishes to report information to Congress that does not qualify as an "urgent concern," the employee may do so by contacting OCA. That Office will handle the request to brief Congress in accordance with the procedures set forth in this Agency Notice.

13. Any questions regarding these procedures for reporting urgent concerns to Congress should be directed to the Deputy Director of Congressional Affairs at [redacted] the Principal Deputy General Counsel at [redacted] or the Deputy Inspector General for Investigations at [redacted]

(b)(3)

(b)(3)

2.5