Statement for the Record

by

William J. Casey

Director of Central Intelligence

before the

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Subcommittee on Legislation

on

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on

H.R. 4, the "Intelligence Identities Protection Act"

Mr. Chairman, I am pleased to appear before the Permanent Select Committee on Intelligence today to testify in favor of enactment of H.R. 4, the "Intelligence Identities Protection Act of 1981."

The Intelligence Community's support for legislation to provide criminal penalties for the unauthorized disclosure of information identifying certain individuals engaged or assisting in the foreign intelligence activities of the United States is well known. I want to emphasize that this Administration believes that passage of the "Intelligence Identities Protection Act" is essential to the maintenance of a strong and effective intelligence apparatus. Enactment of this legislation is an important component of the Administration's effort to implement President Reagan's determination to enhance the Nation's intelligence capabilities.

As you pointed out in your recent letter to me, "the unfortunate events that gave rise to the need for [this] legislation are continuing apace." Mr. Chairman, there exists a coterie of Americans who have openly proclaimed themselves to be devoted to the destruction of the Nation's foreign intelligence agencies. This group has engaged in actions avowedly aimed at undermining the Nation's intelligence capabilities through the identification and exposure of undercover intelligence officers. The perpetrators of these disclosures understand correctly that secrecy is the life blood of an intelligence organization and that disclosures of the identities of individuals whose intelligence affiliation is deliberately concealed can disrupt, discredit and--they hope--ultimately destroy an agency such as the CIA. Some of the persons engaged in this activity have actually

traveled to foreign countries with the aim of stirring up local antagonism to U.S. officials through thinly veiled incitements to violence.

The tragic results of unauthorized disclosures of intelligence identities are well known. Five years ago, Richard Welch was murdered in Athens, Greece. Last July, only luck intervened to prevent the death of the young daughter of a U.S. Embassy officer in Jamaica whose home was attacked only days after one of the editors of a publication called Covert Action Infomation Bulletin appeared in Jamaica, and at a highly publicized news conference gave the names, addresses, telephone numbers, license plates, and descriptions of the cars of U.S Government employees whom he alleged to be CIA officers. Most recently, six Americans were expelled from Mozambique following charges of engaging in espionage. These expulsions followed visits to that country by members of the Cuban intelligence service and the editors of the Covert Action Information Bulletin.

Extensive hearings before this Committee and its Senate counterpart and before the two Judiciary Committees during the 96th Congress documented the pernicious effects of these unauthorized disclosures. Obviously, security considerations preclude my confirming or denying specific instances of purported identification of U.S. intelligence personnel. Suffice it to say that a substantial number of these disclosures have been accurate. Unauthorized disclosures are undermining the Intelligence Community's human source collection capabilities and endangering the lives of our intelligence officers in the field. The destructive effects of these disclosures have been varied and wide ranging.

Our relations with foreign sources of intelligence have been impaired. Sources have evinced increased concern for their own safety. Some active sources and individuals contemplating cooperation with the United States have terminated or reduced their contact with us. Sources have questioned how the U.S. Government can expect its friends to provide information in view of continuing disclosures of information that may jeopardize their careers, liberty, and very lives.

Many foreign intelligence services with which we have important liaison relationships have undertaken reviews of their relations with us. Some immediately discernible results of continuing disclosures include reduction of contact and reduced passage of information. In taking these actions, some foreign services have explicitly cited disclosures of intelligence identities.

We are increasingly being asked to explain how we can guarantee the safety of individuals who cooperate with us when we cannot protect our own officers from exposure. You can imagine the chilling effect it must have on a source to one day discover that the individual with whom he has been in contact has been openly identified as a CIA officer.

The professional effectiveness of officers so compromised is substantially and sometimes irreparably damaged. They must reduce or break contact with sensitive covert sources. Continued contact must be coupled with increased defensive measures that are inevitably more costly and time consuming.

Some officers must be removed from their assignments and returned from overseas at substantial cost. Years of irreplaceable area experience and linguistic skills are lost. Reassignment mobility of the compromised officer is impaired.

As a result, the pool of experienced CIA officers available for specific overseas assignments is being reduced. Such losses are deeply felt in view of the fact that, in comparison with the intelligence services of our adversaries, we are not a large organization. Replacement of officers thus compromised is difficult and, in some cases, impossible.

Once an officer's identity is disclosed, moreover, counterintelligence analysis by adversary services allows the officer's previous assignments to be scrutinized, producing an expanded pattern of compromise through association.

Such disclosures also sensitize hostile security services and foreign populations to CIA presence, making our job far more difficult. Finally, such disclosures can place intelligence personnel and their families in physical danger from terrorist or violence-prone organizations.

It is also essential to bear in mind that the collection of intelligence is something of an art. The success of our officers overseas depends to a very large extent on intangible psychological and human chemistry factors, on feelings of trust and confidence that human beings engender in each other and on atmosphere and milieu. Unauthorized disclosure of identities information destroys that chemistry.

Mr. Chairman, I do not believe it is necessary or advisable to go into greater detail about the adverse effects that unauthorized disclosures of intelligence identities are having on the work of our nation's intelligence service. The credibility of our country and its relationships with foreign intelligence services and individual human sources, the lives of patriotic Americans serving their country, and the professional effectiveness of our intelligence officers are all being placed in jeopardy. The underlying basic issue is our ability to continue to recruit and retain human sources of intelligence whose information could be crucial to the Nation's survival in an increasingly dangerous world.

It is important to understand what legislation in this area seeks to accomplish: It seeks to protect the secrecy of the participation or cooperation of certain persons in the foreign intelligence activities of the U.S. Government. These are activities which have been authorized by the Congress; activities which we, as a Nation, have determined are essential. No existing statute clearly and specifically makes the unauthorized disclosure of intelligence identities a criminal offense. As matters now stand the impunity with which unauthorized disclosures of intelligence identities can be made implies a governmental position of neutrality in the matter. It suggests that U.S. intelligence officers are "fair game" for those members of their own society who take issue with the existence of CIA or find other perverse motives for making these unauthorized disclosures.

Mr. Chairman, I believe it is important to emphasize that the legislation which you are considering today is not an assault upon

the First Amendment. The "Intelligence Identities Protection Act" would not inhibit public discussion and debate about U.S. foreign policy or intelligence activities, and it would not operate to prevent the exposure of allegedly illegal activities or abuses of authority. The legislation is carefully crafted and narrowly drawn to deal with conduct which serves no useful informing function whatsoever; does not alert us to alleged abuses; does not bring clarity to issues of national policy; does not enlighten public debate; and does not contribute to an educated and informed electorate.

The Bill creates three categories of the offense of disclosure of intelligence identities:

a. Disclosure of information identifying a "covert agent" by persons who have or have had authorized access to classified information that identifies such a covert agent. This category covers primarily disclosure by intelligence agency employees and others who get access to classified information that directly identifies "covert agents";

b. Disclosure of information identifying a "covert agent" by persons who have learned the identity as a result of authorized access to classified information. This category covers disclosures by any person who learns the identity of a covert agent as a result of government service or other authorized access to classified information that may not directly identify or name a specific "covert agent"; and

c. Disclosure of information identifying a "covert agent" by anyone, under certain specified conditions outlined below.

There is virtually no serious disagreement over the provisions of the legislation which provide criminal penalties for the unauthorized disclosure of intelligence identities by individuals who have had authorized access to classified information. Controversy has centered around subsections 501(c) of H.R. 4.

Disclosures of intelligence identities by persons who have not had authorized access to classified information would be punishable only under specified conditions, which have been carefully crafted and narrowly drawn so as to make the Act inapplicable to anyone not engaged in an effort or pattern of activities designed to identify and expose intelligence personnel. The proposed legislation also contains defenses and exceptions which reinforce this narrow construction. It is instructive, in this regard, to look at the elements of proof that would be required in a prosecution under subsection 501(c) of H.R. 4. Keeping in mind that the government would have to prove each of these elements beyond a reasonable doubt. The government would have to show:

-- That there was an intentional disclosure of information which did in fact identify a "covert agent;"

-- That the disclosure was made to an individual not authorized to receive classified information;

-- That the person who made the disclosure knew that the information disclosed did in fact identify a covert agent;

-- That the person who made the disclosure knew that the United States was taking affirmative measures to conceal the covert agent's classified intelligence affiliation;

-- That the individual making the disclosure did so in the course of an effort to identify and expose covert agents with the intent to impair or impede the foreign intelligence activities of the United States; and

-- That the disclosure was made with the intent to impair or impede the foreign intelligence activities of the United States.

Because of these strict conditions, subsection 501(c) is narrowly directed at conduct which Congress has the authority and power to proscribe consistent with the First Amendment.

Mr. Chairman, I sincerely appreciate your genuine concern about the maintenance of our intelligence capabilities and I wholeheartedly support your efforts to deal with this very serious problem. I encourage the Committee to proceed to report this legislation favorably.