

The Society of Professional Journalists, Sigma Delta Chi

T E S T I M O N Y O F

ROBERT LEWIS, NEWHOUSE NEWS SERVICE

on behalf of the

SOCIETY OF PROFESSIONAL JOURNALISTS, Sigma Delta Chi

before the

Subcommittee on CIVIL SERVICE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

U.S. HOUSE OF REPRESENTATIVES

concerning

H.R. 4681, "The Federal Polygraph Limitation and
Anti-Censorship Act of 1984"

February 29, 1984

8

Thank you, Madame Chairman. My name is Bob Lewis. I am a reporter here in Washington for the Newhouse News Service and have been a working journalist for the past 28 years. In addition to my professional interest in this subject, I appear today as National Secretary of the Society of Professional Journalists, Sigma Delta Chi. Founded in 1909, the Society is the oldest and largest organization of journalists in the United States, with over 24,000 members in all branches of the news media -- print and broadcasting. Accompanying me is Bruce W. Sanford of Baker & Hostetler in Washington, D.C., the Society's First Amendment Counsel.

The Society comes before the Committee today to provide the perspective of working reporters toward President Reagan's National Security Decision Directive 84 and H.R. 4681, Representative Jack Brooks' effective remedy for the Administration's ill-conceived proposal.

At the outset, let me say that the Society wholeheartedly supports proceeding with this hearing, and passing H.R. 4681, in the wake of the Administration's decision to "suspend" implementation of the most onerous portions of NSDD 84. The government and the people are certainly better served by putting off any efforts to force some 127,000 government workers with high security clearances to sign pledges requiring lifetime government prepublication review of all writings and

-2-

speeches and to allow the increased use of polygraph tests to ferret out "leakers." However, it is clear from news reports (which, incidentally, contained unattributed and apparently "leaked" information from a "White House Official") that the suspension in implementation is not based on a change of policy by the Administration. Rather, it appears to be nothing more than a strategic retreat based on political nose-counting. The "suspension" came just before the start of the confirmation hearings of Edwin Meese, reportedly the architect of the NSDD 84, who President Reagan has nominated for Attorney General. The news reports make clear that implementation of NSDD 84 is only suspended; legislation such as H.R. 4681 is still necessary to insure that the effects of NSDD 84, or any future Executive Order, are never visited upon this democracy.

We feel that, at the very least, Congress should be consulted before an Administration implements such far-reaching policies on federal workers as those contained in NSDD 84, even under the rationale of stopping unauthorized leaks.

The Society believes NSDD 84 is a classic case of overkill in attempting to plug the mythical malady of government leaks. This Directive is, as Bob Schieffer of CBS News, a deputy national chairman of the Society's Freedom of Information Committee, told Representative Brooks' hearing last

-3-

October, "as unneeded as it is unprecedented and ill-conceived." Madame Chairman, we applaud both your committee and Mr. Brooks for your perserverance in remedying the harm that would result from implementation of NSDD 84. We wholeheartedly concur in the finding of Mr. Brooks' Committee on Government Operations that NSDD 84's prepublication review requirement is an unconstitutional prior restraint and that the use of polygraph tests would lead to the widespread mislabeling of many government employees as either honest or dishonest.

The White House has sent signals since its announcement of the suspension of NSDD 84 that it wants a bi-partisan solution to combat unauthorized leaks. But such compromise is not the answer. The Society suggests that rather than trying to implement constitutionally suspect prepublication review requirements, the government enforce existing criminal statutes or propose tougher ones, if needed. The government, rather than trying to institute a program of prior restraints, should collect civil damages where it can show that an official impaired national security by disclosing classified information. If President Reagan is sincere about compromise, he should drop completely any notions of imposing prepublication review requirements or the widespread use of polygraphs.

The specific provisions of NSDD 84 have been discussed thoroughly before this Committee and others in both the House and Senate. The Society believes the Reagan Administration

-4-

has prescribed an antidote for what it sees as an epidemic of leaked government information that weakens the strength of the country. There certainly are national security secrets that should not be released to the public. But the Reagan Administration's proposed cure is far worse than the disease. The Administration seeks to inoculate all government employees with pre-publication review requirements, lifetime screening of all written and oral statements and the widespread use of polygraphs. Such a potent inoculation might cure leaks, but it would also emaciate and suffocate the sustaining ingredients of our system of government -- a citizenry informed about the workings of their government. The Reagan Administration's cure for leaks is to stuff the citizens into one big isolation chamber where only the government can turn the spigot controlling the quantity of government information to the public. This Committee and this Congress must not allow any administration to control the flow of the fresh air of information in a democracy.

As a working reporter here in Washington, I can tell you that NSDD 84, if implemented, would impose an unprecedented system of peacetime censorship that would dry up the substantive information upon which news reports are now based. The Directive would elevate the highly partisan Administration spokesman to the only show in town. Reporters

-5-

in Washington, in order to inform their readers fully, must be able to ask government officials what they are doing, what others are doing, and how they assess the significance of certain events. Reporters do not need to make public legitimate national security secrets. But they do need to tell the American people the current theories and thoughts underlying our national policies and they do need to contact those in positions of authority who can put in perspective an ever-changing world. Any measure such as NSDD 84 dilutes that vital information. It is also quite clear that the effect of NSDD 84 would not be stopping leaks of national security information, but rather stifling unfavorable comments about the administration in power or hiding its embarrassments.

In practical terms, implementation of NSDD 84 would mean that whenever journalists wished to include commentary by a former high government official in news broadcasts or articles, that commentary would first have to be cleared by the government. The nebulous net of the Directive would compel virtually all government officials to say nothing for fear of possibly offending some bureaucratic censor.

The Directive's prohibition against assisting or conferring with any person who has or may have SCI or classified information, including "a ghost writer, spouse or friend, or editor," would also impoverish news reporting from Washington. That language in the Directive would preclude a

-6-

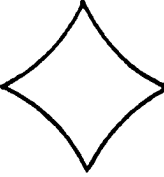
journalist with information he suspects may be classified from checking it on background for accuracy or explanation with a knowledgeable official or former official. As a reporter, I can tell you that the ability to check information with highly knowledgeable sources is the single greatest aid in melding different versions of events and snippets of information into a coherent explanation of world affairs.

In summation, Madame Chairman, people will always leak information for their own purposes, whether lofty as in the case of whistleblowers or petty as in the case of bitter bureaucrats. All it takes to leak is a copying machine and postage stamps. No Directive can stop that. But NSDD 84 extracts a stifling price from our freedom in return for what it would accomplish. It would not stop leaks, but it would control information about the government. This will yield us nothing but skepticism and distrust, and a resulting loss in the credibility of the government.

The cure to this ill-conceived Directive and the mindset that produced it in this Administration, and could produce it in future administrations, is Representative Brooks' H.R. 4681. H.R. 4681 would prohibit prepublication review requirements and would allow polygraph tests only in actual investigations of illegal activities and would require use of a polygraph test only when the subject volunteered.

-7-

The Society supports passage of H.R. 4681. We urge this Committee and this Congress to pass this bill. Thank you, Madame Chairman. I would be happy to answer any questions.



The Society of Professional Journalists, Sigma Delta Chi

FOR RELEASE:

9:30 a.m.

Wednesday, February 29, 1984

The Society of Professional Journalists, Sigma Delta Chi urged Congress Wednesday to pass legislation prohibiting subjecting federal employees to lifetime prepublication review and polygraph tests, as proposed earlier this year by the Reagan Administration. The Society termed the Administration proposals "a classic case of overkill in attempting to plug the mythical malady of government leaks."

Robert Lewis, Secretary of the Society and a Washington correspondent for Newhouse News Service, testified that such legislation remained necessary despite the Reagan Administration's announced intention to "suspend" implementation of National Security Decision Directive 84 (NSDD 84), which contained the proposals.

Lewis noted at a hearing chaired by Rep. Patricia Schroeder (D-Colo.) that the confirmation hearings for Attorney General-designate Edwin Meese, reportedly the architect of the controversial NSDD 84, also began Wednesday. Lewis told the Subcommittee on Civil Service of the House Committee on Post Office and Civil Service that "the suspension in implementation is not based on a change of policy by the Administration. Rather, it appears to be nothing more than a strategic retreat based on political nose-counting."

Lewis gave the Society's strong endorsement to H.R. 4681, a bill proposed by Rep. Jack Brooks (D-Tex.) that would prohibit any Administration from imposing lifetime government prepublication review of the writings and speeches of some 127,500 government employees with high security clearances and from forcing government employees to submit to polygraph examinations.

Describing the effects of NSDD 84's provisions, Lewis said: "The Society believes the Reagan Administration has prescribed an antidote for what it sees as an epidemic of leaked government information that weakens the strength of the country. The Reagan Administration's proposed cure is far worse than the disease."

Attached is a copy of Lewis' statement. For further information contact Lewis at 202-383-7826 or First Amendment Counsel Bruce W. Sanford at 202-861-1626.