

ON SECRET PAPERS

Report Urges Prison Term for Unauthorized Disclosures

By ROBERT PEAR

Special to The New York Times

WASHINGTON, April 20 — A committee of Reagan Administration officials has proposed a law under which any Government employee who improperly discloses classified information would be subject to a criminal penalty of three years in prison and a fine of up to \$10,000.

The committee, in an internal report, said, "Unauthorized disclosure of classified information has become an increasingly common occurrence."

However, it added, "There is no single statute that makes it a crime as such for a Government employee to disclose classified information without authorization."

Support From Administration

Thus, the panel said, "to close the gaps in the present law, we recommend the introduction of legislation imposing a criminal penalty for all unauthorized disclosures of classified information by Government employees" and former employees.

The chairman of the panel, Deputy Assistant Attorney General Richard K. Willard, said today that the Administration had not decided whether to make a "major effort" to win Congressional approval of the proposed statute. In principle, he said, the Administration strongly supports such a statute.

The panel was convened by Attorney General William French Smith at the request of William P. Clark, President

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Panel Asks Penalty on Leaks

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Reagan's national security adviser, who wanted to know what the Administration could do to stop the unauthorized disclosure of classified information. The panel was composed of senior officials from the Central Intelligence Agency and the Departments of Justice, State, Treasury, Defense and Energy.

Officials at the Defense Department and the State Department often disclose classified information to journalists in trying to buttress arguments for or against particular policies. Mr. Willard's report said that unauthorized disclosures by high-ranking officials should be "investigated and penalized in the same manner" as other leaks.

However, in an interview, Mr. Willard said the President could legally authorize disclosures of classified information. In general, he added that information might be declassified only by the official who authorized the original classification or by a "supervisory official" higher in the chain of command.

Thus, he said, the Secretary of State could declassify information generated by the State Department but could not declassify information originally classified by the C.I.A. unless the President gave him authority to do so.

Laws Likened to Prohibition

Mark H. Lynch, a staff attorney for the American Civil Liberties Union, said that such laws would be difficult to enforce. "It would be like Prohibition," he added. "Those proposals try to stop something that people do all the time."

Virtually all the panel's recommendations beyond the new statute, for greater use of polygraphs, secrecy agreements and "prepublication review" of manuscripts, were adopted in a directive issued by the President on March 11.

Two House subcommittees plan to hold a joint hearing on the Reagan directive Thursday. The subcommittee chairmen, Representatives Don Edwards of California and Patricia

Schroeder of Colorado, both Democrats, have criticized the order.

The report by Mr. Willard's committee recommended tough administrative penalties for any Federal employee found to have disclosed classified data without permission. "For most Government employees," it said, "a realistic prospect of being demoted or fired for leaking classified information would serve as a deterrent."

Pentagon Papers Case Recalled

Justice Department officials said there had never been a successful prosecution of a Government employee for the unauthorized disclosure of classified information. No prosecution has been attempted since Daniel Ellsberg and Anthony J. Russo Jr. were indicted in 1971 on charges of conspiracy, espionage and theft of Government property stemming from publication of the Pentagon Papers. A Federal judge eventually dismissed the charges because of what he said was "improper Government conduct" in the investigation.

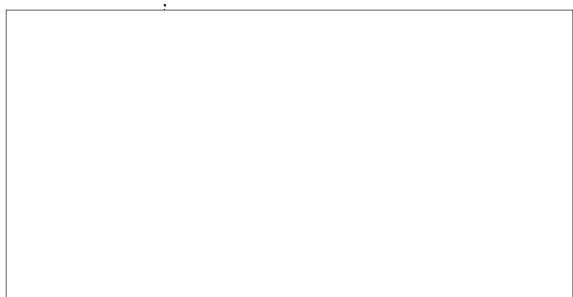
Mr. Reagan's directive of March 11 said that Federal employees and former employees with access to highly classified information would have to submit manuscripts to the Government for review, to "assure deletion" of all classified information. Mr. Willard's committee, known formally as the Interdepartmental Group on Unauthorized Disclosures of Classified Information, recommended such reviews but focused mainly on disclosures by current employees.

The other members of Mr. Willard's committee were Ernest Mayerfeld, deputy general counsel of the Central Intelligence Agency; Daniel W. McGovern, deputy legal adviser at the State Department; Jordan Luke, assistant general counsel at the Treasury; Kathleen A. Buck, a Defense Department attorney; L. Britt Snider, director of counterintelligence and security policy at the Pentagon, and James W. Culpeper, a Deputy Assistant Secretary of Energy.

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The Reagan Corollary

By William Safire

WASHINGTON, April 20 — President Reagan has decided to use a joint session of Congress as his forum to address the American people on the defense of this hemisphere. It's about time.

Isolationists have mired us in squabbles about how secret our defense should be, whether we help or hinder the anti-Communist forces with our aid, and whether we are going to be drawn into another Vietnam. The President has a duty to lift the nation's eyes to the essential debate:

In the face of an undeniable penetration of Central America by forces beholden to a foreign power, does the United States have the will to organize and supply the resistance — and the skill to enable the local anti-Communists to win their own battles? Are we so transfixed by our Vietnam defeat that we cannot help mount a defense of our own continent?

Ah, but the questions are not so simple, the isolationists say. The internal shortcomings of our allies, and not Soviet-Cuban agitation, may be the cause of the fighting. Why should we care which totalitarian regime wins?

The unselfish answer is that we should care on the basis of human rights, because we have seen that no modern government inflicts police-state brutality as thoroughly as a Communist government; the selfish answer is that the United States must care on the basis of its own defense.

Assuming that Mr. Reagan will make the case for rising to responsibilities, here are notes for his yellow pad:

1. Don't waste much time proving again that Castroites and Sandinists are supplied by Moscow; that's a given. Point to the four Libyan planes turned back by the Brazilians; their cargo was labeled "ambulances, hospital equipment and medical supplies"; that's what they call Soviet guns, rockets and ammunition for Nicaragua's army. Make the point and move on.

2. Show how this region is central to U.S. defense. Nearly half our foreign trade tonnage and imported crude oil passes through the Caribbean; access to the Panama Canal is vital. The Communist conquest and use of Central America would pose a direct strategic danger.

3. Expose the hypocrisy of isolationist "compassion". Ten percent of the population of El Salvador — a half-million people — have fled to the U.S., just as 30 percent of Afghanistan's population has fled Communist op-

pression; these refugees are not running from phantoms.

4. Tell Americans what the fine-sounding "negotiated settlement" means in El Salvador. It means upsetting the results of a democratic election and forcing the Government to share power with gunmen, leading to salami-tactic takeovers. We are not going to force our ally to do that.

5. Explain the purpose of our not-so-secret war in Nicaragua. The Carter Administration tried bribing the Sandinists with twice the foreign aid and multilateral loans in two years that was provided the Somoza regime in 20 years; appeasement did not stop Nicaragua from gagging its press and subverting its neighbor. Since the Sandinists would not stop pouring arms into El Salvador, we decided to help the anti-Sandinists make life hard for the troublemakers in Nicaragua.

6. Does this mean we are breaking the curious law passed to guarantee Nicaraguan Communists that our aid would not be used to overthrow them? No; arming 5,000 anti-Sandinists is hardly likely to lead to the overthrow of a regime backed by a 75,000-man army. Obviously we are helping to make life miserable for the junta by supplying its opponents; this is called "applying pressure." A painful tax on the export of revolution will be more effective in getting Nicaragua to stop subverting El Salvador than the millions spent on appeasement.

7. Does that mean we will pull the plug on "our" Nicaraguans if the Sandinists pull the plug on "their" guerrillas in El Salvador? The President should refuse to countenance such a deal, which would be like the Shah's betrayal of the Kurds; he should press for free elections in both countries, and let all anti-government factions take their chances at the polls.

8. The Reagan Corollary. Needed now is an assertion of U.S. policy to update the Monroe Doctrine. We should pledge our willingness to answer Communist subversion not merely with aid to the victim but with support of clandestine opposition in the subverting countries. Recognizing the war power of the Congress, the President should ask the joint session to appropriate specific "punitive funds" to finance the indigenous harassment of our allies' harassers.

9. Peroration. Ixnay on the usual soaring rhetoric and spiritual uplift. Get serious, even solemn: Central America is too close to home for isolationism to be an option. We will help our friends defend themselves. Take note, Havana and Tripoli: We will apply the pressure to the source of the trouble.

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