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SECRET

U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE
WASHINGTON, DC 20515-6415

August 6, 1999

The Honorable George J. Tenet
Director of Central Intelligence
Washington, D.C. 20505

Dear Mr. Tenet:

I thank you for your response to our letter of 15 June on the damage to national security caused by ongoing leaks of classified information. I agree with your suggestion that we hold a closed hearing on this issue in order to establish the seriousness of the damage caused by these leaks.

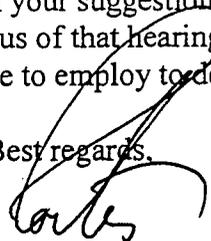
I believe, however, that the time has come for us to look beyond just an assessment of this problem. I think it is time that we take what action we can to identify and prosecute leakers of classified information. Even a single successful prosecution, as you know, would affect all those who now find unauthorized disclosures to be a risk-free endeavor.

With that in mind, I strongly suggest that you reconsider your present practice of standing down your investigation of leaks during the pendency of a review by the Department of such a leak. These reviews, as you know, have not led to prosecutions and may impair your own ability to identify and address unauthorized disclosures on an administrative basis. With that in mind, I encourage you and the Department to reach an agreement that will enable the Agency to pursue an aggressive administrative investigation without jeopardizing a prompt and simultaneous review by the Department for possible prosecution.

In addition, and more generally, I am curious about what other investigative tools and remedies you do, or could, employ to find and punish unauthorized disclosures. I am interested in whether, and how often, you do in fact employ single-point polygraph examinations as an aid in your investigations. I am also interested in whether you have considered additional auditing or tracking technology that might be employed by your agency as a means of narrowing the scope of an investigation of a leak. Finally, I am interested in whether you have considered what additional civil as well as criminal remedies for leaks could be employed to widen the possibilities for bringing leakers to court.

I do, in short, agree wholeheartedly with your suggestion that our Committee hold a hearing in the near-term on unauthorized disclosures. The focus of that hearing, however, will be what additional tools you have employed, will employ, and would like to employ to defeat this most frustrating of problems.

Best regards,


Porter J. Goss
Chairman

SECRET
HPSCI 99-1627

The "Leaks" Provision

What it says:

- ◆ applies to current & former employees, officers, contractors
- ◆ who have/had authorized access to classified information
- ◆ who willfully and knowingly discloses properly classified information
- ◆ to a person who is not authorized access to such classified information
- ◆ knowing that person is not authorized to receive such information

- ◆ The statute does NOT apply to disclosures to:
 - ◆ federal courts
 - ◆ Congress
 - ◆ persons acting on behalf of a foreign power (or IO) if made by
 - ◆ an officer/employee of US authorized to make disclosure
 - ◆ AND
 - ◆ is within scope of officer/employees duties
 - ◆ any person authorized to receive classified information

Why It's Necessary:

- ◆ current law covers only national defense information and cryptographic systems
- ◆ current law does not cover foreign liaison intel, covert action, CI capabilities, covert bank accounts, proprietaries, sources/methods, human intel, narcotics,
- ◆ leaks are damaging liaison relationships, technical collection and human assets
- ◆ damage caused by leakers is every bit as serious as damage caused by espionage
- ◆ loopholes in law limits me to revoking clearances – but only if still employed
- ◆ failure to enact provision will send message to foreign govts we are not serious
 - ◆ foreign liaison and govts are crucial to current C/T and WMD efforts
- ◆ there should be no zone of impunity for government officials who leak secrets
- ◆ there is no constitutional right to leak secrets regardless of motivation
- ◆ this is not a political issue – it is a national security issue that must be addressed

What It's Not:

- ◆ it is not unconstitutional: narrowly drafted with DoJ, specific intent crime
- ◆ does not apply to inadvertent disclosures or mistaken understandings
 - ◆ must be done "knowingly and willfully"
- ◆ does not apply to the press; AG guidelines in place to ensure no misuse
 - ◆ press has never been subpoenaed or indicted under current criminal laws
- ◆ this is not a panacea which will stop leaks; it is an arrow in the DoJ quiver