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SECRECY & GOVERNMENT BULLETIN

To Challenge Excessive Government Secrecy and
To Promote Public Oversight and Free Exchange
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Meeting the Challenge of Government Secrecy

Excessive government secrecy seems to be spawning, in dialectical fashion, an increasingly aggressive public interest sector to challenge it.

Lacking confidence that classification authority is being exercised in good faith, more and more individual citizens are cultivating their own government sources, circulating unauthorized and accidental disclosures of classified information, and tapping foreign sources of U.S. information.

One of the more unusual products of the emerging network of open government entrepreneurs is a recent volume entitled "Area 51 Viewer's Guide" by Glenn Campbell.

Area 51 is the unofficial name of an unacknowledged military facility near Groom Lake at the Nevada Test Site. The classified activities there have inspired much of the contemporary mythology surrounding UFOs as well as some of the reports of an alleged hypersonic reconnaissance aircraft ("Aurora").

In his Viewer's Guide, Mr. Campbell presents a wealth of practical information geared toward those who would seek the truth about Area 51, most of whom are UFO enthusiasts. Campbell himself, a disciplined and witty observer, is "neither a UFO believer or a disbeliever." "To the best of my knowledge, I have not seen any flying saucers or secret aircraft myself, but I have seen many objects that could be mistaken for them."

In any case, "I don't think the main issue is UFOs or Aurora, but the ridiculous levels of security out here."

To visitors who would explore the terrain around Area 51, Mr. Campbell expounds on the virtue of courtesy to local landowners and he consistently urges respect for legal restrictions, on both ethical and practical grounds. "Don't get any kooky ideas about conducting Greenpeace-style commando raids to overwhelm security and 'smash open the wall of UFO secrecy.' These installations are equipped with overwhelming firepower, and stopping an invasion is exactly what it is there for." Plus there are the armed guards in uniforms with no insignia who patrol the perimeter in tan Ford Broncos.

But there are other ways inside, including satellite photos. "You can rest assured that the U.S. government will not sell you detailed satellite imagery of Groom or Papoose Lakes. So... who you gonna call? Why, the Russians of course!" Contact information is provided for ordering high resolution Russian satellite photos of the area, along with a warning that they are expensive. "One photo of Groom Lake was sold recently for about \$1900." (A surface photo of the facility there also appears in the March 1993 issue of *Popular Science*, page 59.)

And for those "who want to experience the thrill of espionage without actually breaking the law, there is a small mountain you can climb to look down on the secret

Groom Lake airbase." The mountain, known as White Sides, was somehow overlooked by the military when it seized some 85,000 acres of public lands in the area in 1984. The continued accessibility of White Sides "is monitored by a loosely knit secret society known as the White Sides Defense Committee. It is they who have researched the legalities, mapped the trails and transported the lawn chairs to the summit that the security forces inevitably steal."

The Viewer's Guide includes detailed geographical data, a catalog of unusual visual phenomena together with conventional and "exotic" explanations, and flight schedules for the peculiar fleet of "Janet Airways" 737s that bring workers from Las Vegas to the area every weekday morning at dawn. Along with tips for negotiating close encounters with the Sheriff and the unidentified security forces, there are startling anecdotes throughout, like the tale of the fellow "who attached a video camera to a radio-controlled model race car and sent it down the Groom Lake Road." The bibliographic references, heavy on UFO lore and Aurora, are of uncertain value. Rounding out the 110 page text is extraneous material on the best buffet spreads in Las Vegas.

For all its flippancy and deliberate epistemological murkiness, the Viewer's Guide is a work of real transformative power. Campbell seizes on the extravagant security measures intended to conceal Groom Lake and effectively turns them into a spotlight on the facility.

A copy of the Area 51 Viewer's Guide may be ordered for \$15 plus \$3 postage from Glenn Campbell, HCR Box 38, Rachel, Nevada 89001.

The Frenzy of Reform

While the scope of Cold War government secrecy so far remains essentially undiminished, purported secrecy reform initiatives have been multiplying at a pathological pace.

A presidential task force on classification reform is working to "re-evaluate our security classification and safeguarding systems." A DCI-DOD Joint Security Commission is conducting "a comprehensive review of security practices and procedures" including "classification, declassification, compartmentation and other controls." And the National Industrial Security Program is struggling to define "a single, integrated, cohesive" security policy to protect classified information in industry.

The latest contender is a Commission on Protecting and Reducing Government Secrecy, conceived by the estimable Senator Daniel P. Moynihan and enacted in the Senate version of the 1994 Foreign Relations Authorization Bill (S.1281).

This Commission, according to the Senate report language (S. Rep. 103-107, p. 53), would "examine how and why information is classified by the government and

recommend how the volume of classified information may be reduced." The Commission's examination would last two years, culminating in... a report. The Senate bill authorizes a rather baffling appropriation of \$950,000 per year for two years to pay the Commission's expenses.

The new Commission would "add to the Administration's internal review the opinions of persons from both Houses of Congress, both major political parties and, importantly, from public life. This expanded review is important in making any overhaul of the secrecy system credible," according to the Senate report. However, it would conclude approximately two years after the other official reviews are to be completed.

In any case, the Commission proposed by Senator Moynihan, a leading Congressional opponent of excessive secrecy, has at least a couple of virtues worth highlighting:

Unlike the executive branch reform initiatives, the twelve-member Commission would have to include six non-government employees. The various other reviews are composed exclusively of insiders who unrealistically are supposed to reform themselves. This all but guarantees an outcome that scants the public interest in access to government information.

Also, the Moynihan proposal is welcome as one of the comparatively few indications of active Congressional interest in the problem of excessive government secrecy. Too often, the legislative branch assumes a supine position before the national security bureaucracy on classification issues.

Another praiseworthy example of Congressional initiative in this area is the measure sponsored by Rep. David Skaggs to require a cost-accounting for secrecy related expenditures government-wide. The Skaggs language, included in several of the House appropriations bills and the intelligence authorization bill, also requires establishment of secrecy cost-reduction goals for 1995.

Citing Mr. Skaggs' work, House Intelligence Committee Chair Dan Glickman said that the intelligence community is now "under warning they had better get moving on working on a responsible declassification policy so that more government records can be open and so that we do not, without sense, classify matters in the first place." (*Congressional Record*, 8/3/93, p. H5691).

House Yields to CIA on Budget Secrecy

The force of any such warning was undercut by the failure of the House to approve an amendment, introduced by Rep. Barney Frank, requiring disclosure of the size of the total intelligence budget, even though the House had approved non-binding resolutions to the same effect for the last two years. (*LA Times*, 8/7/93, p.A10).

It requires a willed act of imagination to penetrate the thinking of the opposition and to try to understand the case against this modest amendment. The argument seems to have been that official disclosure of the total budget would bring "pressure for more disclosures," which is true enough, although the House proved fully capable of resisting the pressure for passage of this amendment.

Further, it was argued, undue public attention would be focused on the annual incremental changes up or down in the total intelligence budget, leading perforce to disclosure of sensitive sources and methods, development of enemy countermeasures, and the final collapse of the U.S. intelligence apparatus!

It is hard to tell if anyone really believes this. Even if individual budgets for overhead reconnaissance, human intelligence, and so forth, were to be published outright-- which has never been officially proposed [*but see S&GB 25*]-- this would not constitute a revelation of technological strengths and weaknesses, nor an identification of specific espionage targets.

But citing the reflexive opposition of CIA Director Woolsey and the Clinton Administration to budget disclosure, the opponents carried the day and the amendment was defeated 169-264. (*Record*, 8/4/93, pp. H5773-79).

Secrecy Oaths

In another scarcely comprehensible action, the House voted to require all members of Congress as well as executive branch employees to execute secrecy oaths pledging not to willfully disclose classified intelligence information. (*Cong Record*, 8/4/93, pp. H5770-73).

The original amendment offered by Rep. Porter Goss, who insists he was a clandestine services officer for the CIA for 12 years, would have required oaths only for members of the House. But to avoid singling out the House, that proposal was revised to include Senate and executive branch employees by Rep. Dan Glickman, who opposed the measure anyway, explaining that "I do not think that any additional secrecy oaths are needed."

Indeed, the action is gratuitous and fetishistic, since members of Congress are already bound by rules prohibiting disclosure of classified information, and have taken oaths not to violate those rules.

ISOO to Move to NSC?

Following the House of Representatives vote [S&GB 24] to defund the Information Security Oversight Office, which is supposed to oversee the functioning of the classification system, the Senate has acted to transfer ISOO from its administrative home in the General Services Administration to the National Security Council in 1994. (Senate Rep. 103-106, page 76). The Senate also fully funded the ISOO budget request of \$1.5 million.

The move, if approved in conference, would enhance ISOO's stature and clout, although its staff of 15 is hardly capable of conducting thorough oversight of the vast secrecy bureaucracy. Experience suggests that some new enforcement mechanism, extending deep into the national security labyrinth itself, as well as an independent top-level oversight body including public representation, will be needed. And, of course, there needs to be an information security policy that's worth enforcing.

Security Clearances

As if to disprove the second law of thermodynamics, the personnel security clearance system in the Department of Energy is actually increasing in complexity.

Most DOE employees who handle classified atomic energy information have what is called a "Q" clearance. This year, Sandia National Laboratories in New Mexico is introducing an additional category known as an "L" clearance.

The new L clearance allows access to national security information at the Secret level, and to special nuclear material categories 3 and 4, but not to Secret Restricted Data or to SNM categories 1 and 2. Whatever.

The motivation behind the move is to increase reliance on lower-level clearances, which can be approved faster and less expensively. Inevitably, however, complications are anticipated as lab areas and computer networks that were formerly open (to all cleared personnel) must now be secured against those who only have the lower L clearance.

In another personnel security conundrum, many employees at Sandia have stopped seeking counseling for personal problems for fear that it will lead to loss of their security clearance. Fewer and fewer employees suffering from alcoholism or drug addiction, for example, are turning to Sandia's Employee Assistance Program (EAP) to get help, concerned that their request for treatment will be disclosed to security investigators. In a typical survey response, one employee wrote anonymously that he would "never" seek EAP help, would only seek private counseling "under false identity" and would "pay cash." (*Sandia Lab News*, 4/30/93, p.1).

Lab officials say the employees' concern is "nearly baseless" and that "the real security concern is when people have horrendous problems that remain untreated."

Joint Security Commission Interview

Last May, the CIA and Defense Department announced the establishment of yet another Commission to examine secrecy and security policies and to recommend improvements. (*Wash Post*, 5/27/93, A23). Encompassing classification, personnel and industrial security, the work of the new Joint Security Commission overlaps with the Presidential PRD task force on classification as well as the National Industrial Security Program. A copy of the Commission's charter is available from our office.

A cynical person might say that the Commission has all the earmarks of a strategic deception: By asserting leadership in classification reform, the CIA is in the best possible position to block the fundamental changes that are needed. Moreover, the Commission membership is composed entirely of defense and intelligence community veterans and a couple of defense contractors. And though nominally "joint," it was legally established as a CIA-based entity in order to evade the open-meeting requirements of the Federal Advisory Committee Act.

In a July 28 interview with S&GB, however, Commission Chairman Jeffrey H. Smith came across as sincere, competent, and well-intentioned. The interview took place in Smith's office at the law firm of Arnold & Porter. A CIA public affairs officer was also present.

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S&GB: How would you summarize the problem for which the Joint Security Commission is the solution?

Smith: The Commission was established by the DCI and the Secretary of Defense to take a look at all of the security systems and procedures in their purview. The existing security systems, procedures, and policies that have built up over the Cold War really have their roots in World War II. Security has proceeded on the basis of risk avoidance, in fact near total risk avoidance if we can achieve it, and the question is, is that necessary for everything we're trying to protect or should we move to a system based on a philosophy of risk management?

There's also a recognition of tremendous overlap, tremendous overcomplexity and inconsistency between and among agencies, problems that inhibit the flow of information within the government and that a lot of people within the government find extremely frustrating. Incidentally, a lot of the motivation for these changes comes from the bureaucracy. There's also a sense that we're spending a great deal of money in industrial security that may not be justified. There's a lot of frustration in industry with which you are familiar.

So my concept of what we're doing is that we are taking the ongoing work of the National Industrial Security Program and the PRD Task Force [on classification reform], and we're going to give it political velocity. By the way, we are unique in the annals of commissions, in that we have to make our report by February 1, but then we stay in business until June 1. And the purpose of that is so that we can oversee the implementation of those recommendations that the Secretary of Defense and the DCI accept.

S&GB: It's as if the Commission is actually intended to make some changes.

Smith: Both Woolsey and Bill Perry said to me they'd been on a lot of government commissions and the pattern was always the same. Which is, that these folks came in, looked at a particular issue, made some recommendations, and then went home. But this is a time when they really have to make some changes. And they want to have the pressure as well as the time of the Commissioners and the Commission staff to oversee the implementation.

Now I've been around Washington a long time, and I have no illusions about how easy some of these things will be to do. And I'm guarded in my views as to how much we will in the end really accomplish, because this is not an easy subject. But this is a unique moment. The stars have lined up in such a way that we really have a chance to do something right, and everybody with whom I speak both in government and without says, boy is that

great, go to it.

S&GB: You mentioned the concept of changing from a policy of absolute risk avoidance to one of prudent risk management, which is the single most intriguing notion in the Commission's Terms of Reference. But in practice, it's not clear what that means. Take, for example, the question of the official secrecy surrounding the intelligence budget. Is that a matter of risk avoidance or risk management? I think the answer is neither.

Smith: Well, I can avoid answering that by saying that we have not been asked that question.

S&GB: Well, you've been asked to conduct a comprehensive review of security practices including classification, and one of the more prominent classification issues in intelligence is budget secrecy. Of course it's largely academic, since the budget total is widely reported. But it's still important as a measure of government's good faith or lack of it. Don't you consider this to be in your domain?

Smith: No. You are the second reporter to ask me that question. In both instances my answer is the same. That has not been raised by either Woolsey or Perry. I think that is a decision that they want to make themselves. We are looking much more at the nitty gritty day to day management of defense and intelligence.

S&GB: My suspicion is that a lot of the problem areas in classification and information security are similar in that they are cultural issues, and they are not related to any particular threat. The idea that we should move from complete risk avoidance to prudent risk management presumes that security procedures are currently derived from some kind of threat assessment. But, in my opinion, that's not true. For the most part, I don't think the procedures are derived from a threat assessment at all. I think they're reflexive, they're cultural, they're an attitude that, oh, you know, we don't talk about intelligence budgets, or oh, of course that's secret, because it's always been secret. They're not attributable to any particular risk or threat. So I think there are cultural issues that I wonder if you are consciously prepared to deal with.

Smith: You are absolutely right that these are cultural issues. My own background, if you don't know it, is that I went from the Pentagon to the State Department to the Senate, and in each of those areas I worked in highly classified programs. I understand completely the culture and the attitude about classifying what it is that we do. It's just routine. The embassy sends in a cable and it's classified, because that's the way the State Department functions. But having said that, there is also a growing recognition of the costs of classification, not only the dollar costs, but in terms of inhibiting the flow of information and frustrating the ability of people to do their job.

What I question, what seems to be implicit in your question, is that if we were to somehow declassify the intelligence budget levels, that that would then trickle down and break the cultural attitude of folks down the line and therefore less information would be classified. I don't see that.

S&GB: Let me ask you about a related matter. Among all the factors in the Terms of Reference that you are asked to consider, there is no acknowledgment of any public interest in access to government information. You're supposed to consider efficiency and cost and all these fine principles, but you're not explicitly asked to consider the public interest in access to defense and intelligence information.

Smith: That's a good point. Although it may not be explicit, we are certainly aware of it and there is a recognition that the product of the intelligence community as well as the product of defense, whether it be the production of analysis and reports or hardware, needs to be more widely available to the public, because there's a lot that the taxpayers pay for that could have a positive impact either on public debate on public issues or on the economy. So that is inherent and I think the Commission is certainly cognizant of that.

S&GB: I was also concerned about the makeup of the Commission itself. I didn't see anyone, perhaps with the exception of yourself, who to my knowledge has demonstrated a concern about the difficulties that people have on the outside in trying to get information out of the CIA or the whole national security establishment. I was impressed, though, to learn that you've done pro bono work for Greenpeace and the National Security Archive on FOIA cases. So I guess you're the representative of the public interest on the Commission.

Smith: I'm also the Chairman.

[Public access] is on our agenda. How the Commission will treat it and how we will come out, it's too early to tell. But we're certainly aware that one of the things that is important is the underlying question of what should be classified, what should not be classified, what are the cultural issues that lead people to reflexively classify. I think all of us understand it.

S&GB: Are you getting input from the people you need to get input from?

Smith: We will systematically seek input from a variety of sources including public interest groups, yes.

S&GB: Is that in progress?

Smith: In some ways, we are just getting organized. We have had two full Commission meetings, we have subcommittees established, and I should tell you the subcommittee structure.

We have established four subcommittees. One deals with the threat and threat analysis and trying to link the threat to the requirements-- the point you made earlier about how there's no linkage, we're trying to do that. We're looking at some techniques that have been used elsewhere in the government to try to match threat to some sort of intelligent security or physical protection aspects.

The second subcommittee is personnel security. And that includes standards for classification; liaison with Steve Garfinkel's operation, the PRD 29 task force; who gets security clearances-- the issues raised by Executive Order 10450; and the polygraph. So that subcommittee has got a lot on its plate.

The third subcommittee is physical, technical and operations security. And as the title suggests, that's guards and operations security and technical security. And that's another huge area.

The fourth subcommittee is information management security. Those are the four subcommittees. We've got a staff of 15-20 people from the Executive Branch.

I've written the Secretaries of State, Energy, Treasury, Commerce and the Attorney General and asked them to provide a designee to work with us at the staff level to make sure they're informed and we hear from them. And we've begun to meet with these people. Later, over the course of the fall, we will invite industry associations to give us their views and we're going to invite public interest groups to give us their views.

S&GB: Of course, the National Industrial Security Program has been working on similar topics for more than three years now and to a certain degree it's still in gridlock, although there is now a deadline of January 1994. Against that background, I look at your eight month schedule and I wonder if it's realistic to try to deal with all of these topics you're trying to deal with in an eight month period.

Smith: We have a huge agenda, there's no doubt about it. My philosophy is that we cannot do absolutely everything that we are asked to do. But we can go through and pick out the major problems and try to address them. I would rather do fewer things and do those well that will have a positive impact, than try to do too much and do it poorly. So the idea of the subcommittees is to pick out the dozen or half a dozen or two dozen long poles and then address those. And that's the way we're trying to do it.

With respect to the NISP in particular, you should know that John Elliff is the executive director of the

NISP, and he's the deputy staff director of our staff. Also, Harry Volz of Grumman [another leading figure in the NISP] is on the Commission precisely because-- I talked about political velocity, that's a term that I've come up with-- we want to pick up the work of these groups and then give it velocity. And that's what Harry and John can do in a way that perhaps a larger group can't do.

S&GB: Your relationship with the PRD 29 task force: Is that being managed properly? Isn't there a danger of overlap or duplication or undercutting one by the other?

Smith: Our concept of this is to work very closely with the PRD 29 process. It is certainly possible-- there is overlap, clearly. That is not to say that the President would not benefit from separate recommendations. To the extent that we disagree, this Commission is not going to have any reluctance to recommend something different to the DCI, the Secretary of Defense, and perhaps ultimately the President. Whether there will be a disagreement, I don't know. We'll have to see how the process plays out. But the idea is to coordinate closely.

Another area that I know you are interested in talking about is special access programs, a subject both groups are looking at. Our Commission may be better able to deal with that issue than Steve's [Garfinkel's] process, only because of the base of the Commission, the Commissioners, and the fact that we're going to be talking to industry with a rather particular [focus]. We may be able to make some unique recommendations. And we have talked to Steve on that very point and he understands that we may be able to look at that issue in a little bit more depth than his group can.

But we will review his drafts at the appropriate point, and we'll be given the opportunity to comment.

S&GB: And vice versa?

Smith: Well, unfortunately, his timetable is ahead of ours. Whether anybody will review our recommendations, I don't know. I mean, I've got the former chief of staff of the Air Force, the former deputy director of NSA, folks of that caliber on the Commission, and they're not accustomed to having somebody else review their work before it's published.

S&GB: There's at least an expectation that the draft executive order that the Garfinkel group comes up with will be made available for public comment prior to its approval and implementation. Do you see any role for members of the public who are concerned about access to government information and accountability in your process? Is it basically that at some point you're going to invite people to submit input and then essentially that's it?

Smith: We have not decided exactly the process that we will follow in the fall with respect to putting together our report and who will review it and how we will proceed. I just don't know the answer right now. There are members of Congress who have expressed similar kinds of interest. There may well be hearings in the fall or next spring, I don't know. We'll have to see.

But I'm very sensitive to the need to hear from public interest groups. First of all, I think they have a lot to say that we ought to hear. Secondly, I would like them to feel part of the process so that when our recommendations eventually surface, they will-- I mean, I'd like to have support. If people are not part of the process, they are less likely to support the results. So there's a variety of reasons why it's a good idea to get groups that have expertise and experience, to hear from them in this process. But how that's going to work I don't know.

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