

Justice Weighing Action Against CIA Ex-Agent

By Charles R. Babcock
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The Justice Department is investigating whether it is possible to bring espionage charges against former Central Intelligence Agency officer Philip Agee—or perhaps his publisher—over a forthcoming book that is said to identify hundreds of undercover CIA operatives.

The department also is considering taking civil action in an effort to stop publication of the new book, "Dirty Work: The CIA in Western Europe," which is scheduled to be published next month by Lyle Stuart Inc. of Secaucus, N.J.

Justice officials emphasized in recent interviews however, that they have made no decision on whether to

proceed against Agee. It is possible, they said, that legal problems may preclude taking any action.

Just last year, for instance, the Justice Department decided it would not prosecute Agee for secrets he disclosed in an earlier book, "Inside the Company: CIA Diary."

In that book he described his years as a CIA agent in Latin America in the 1960s and identified several other undercover operatives.

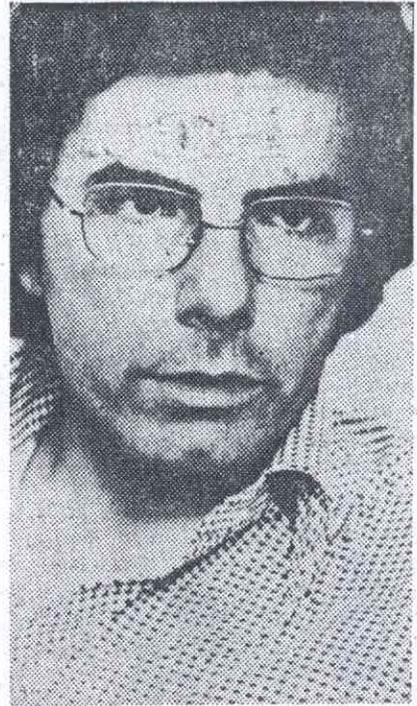
CIA officials were upset at the time by what they considered the failure of the espionage laws to punish such disclosures. But one knowledgeable source said that an espionage charge against Agee—then or now—could be counterproductive because it would give him a platform to discover still more CIA secrets that might be disclosed at a trial.

Civil action—such as the breach of contract suit the department won against Frank Sniepp, another former CIA agent-turned-author—is complicated because Agee lives abroad and cannot be reached by regular court proceedings.

Justice earlier moved successfully against Victor Marchetti, coauthor with John D. Marks of "The CIA and the Cult of Intelligence," to hold up publication while a judge reviewed CIA deletions.

But a proposed injunction against Agee's publisher is complicated officials acknowledge, because Lyle Stuart signed no secrecy agreement to protect CIA material. Thus in such a case the government would have to meet the difficult standard of irreparable harm, which the U.S. Supreme Court raised in the celebrated case involving the New York Times and the Pentagon Papers.

A possible espionage charge against the publisher perhaps for receiving classified information, also is being looked at, one official said. But that would be an unprecedented attack on



PHILIP AGEE
... abroad and out of reach

the press and raises the same problems of possible disclosure of secrets as such a charge against Agee.

Justice officials have been reluctant to discuss the specifics of the Agee case, though some have confirmed that the CIA claims the new book will reveal the identities of many undercover agents.

Such unauthorized disclosure of names could be prosecuted because the identities are classified, officials said.

Another recently formed project by the former agent also is a cause for concern at the CIA and Justice. A new magazine called the Covert Action Information Bulletin announced it would fight the intelligence community by "exposing CIA personnel and operations whenever and wherever we find them." The first issue identified a man alleged to be the CIA station chief in Jamaica.

Though the magazine could be a recurring source for releasing unauthorized classified material, legal action against it is not being considered as part of the current review of what to do about Agee's book, officials said.