

Theodore J. Jacobs

The CIA Needs More Than Glue

Former attorney general Griffin Bell defends the Supreme Court's reckless and vindictive action in the Frank Snepp case ("Secrecy After the Snepp Case," op-ed, April 9) on grounds that the decision may be "the glue that preserves our intelligence agencies from the ravages of a purported absolutism, described under the euphemism of 'the public's right to know.'" This is another contribution to the current mythology that our intelligence agencies are weak and are viewed as irresponsible by our allies because, among other equally persuasive reasons, we allow people like Snepp to write books.

The fact is that the quality of our intelligence is weak, morale is at a very low ebb in the CIA, and allied intelligence services are sometimes reluctant to entrust the CIA with secrets. But this mess cannot fairly be blamed on two or three people who have published books in violation of the secrecy agreement the CIA requires of all employees.

The need for "glue" to preserve our intelligence agencies stems from a series of CIA wounds that are largely self-inflicted shots in the leg. They range from the relatively early misadventures (remember the Bay of Pigs and the efforts to kill Fidel Castro?) to the more recent inanities imposed by CIA Director Stansfield Turner in the form of wholesale computerized cutbacks in the senior levels of the clandestine service. They also include grave failures to predict events in Iran, or the Vietnamese invasion of

Cambodia, or the Soviet brigade in Cuba. There are also Keystone Cops snafus, such as going to court to halt publication of a Philip Agee book when the book was already on sale in Washington bookstores. These are some of the CIA's real problems, yet the myth, in which the former attorney general joins, is that the culprits are the Snepps and the few other critics who have written without CIA approval.

In fact, dozens of books have been written, hundreds of articles published and thousands of speeches given by former CIA officials. Many of the books and all the oral presentations went unreviewed by the CIA, without any demonstrable harm to the nation. In the preface to his book about Richard Helms, "The Man Who Kept the Secrets," Thomas Powers explains that he interviewed more than 40 former CIA officials. "I found CIA people quite willing to talk about their careers," he says. "... Most began by telling me what they wouldn't talk about. ... As we talked, however, the force of these prohibitions seemed to erode. A name that popped up in one conversation would serve as a useful wedge in another. ... If one keeps asking questions, the answers will gradually begin to fit together."

Since it is clear that the CIA agreement under which Snepp was sued applies equally to the people who talked to Powers, including Helms, the question must be asked: why have cases been brought only against critics like Frank Snepp, Agee and John Robert Stockwell? Obviously, it must have something to do with the fact that they are critics of the CIA and because they have defied what they believe to be an unconstitu-

The writer is a Washington lawyer and director of the Project for Open Government.

tional prior restraint on their First Amendment rights of free speech.

An interesting sidebar to the Snepp and Stockwell prosecutions is the case of former CIA director William Colby, whose book of memoirs, "Honorable Men: My Life in the CIA," was dutifully submitted to the CIA for review. At the same time, it was sent off for the French-language publication of the book. Of course, Colby made the changes suggested by the CIA in the English-language version, but someone neglected to inform the French publisher. So anyone who cares to

Taking Exception

compare the two versions can pinpoint exactly what the CIA wanted deleted.

It is this kind of witlessness that adds to the foreign concern about whether the Americans can keep secrets. The fact is that the Snepp book contained no classified information. Colby's book did. So why sue Snepp and not Colby?

Bell does not deal with the problem of selective enforcement and disposes of the basic First Amendment issue at stake in the Snepp case as casually as the Supreme Court did. But he neglects to mention that we have *criminal* laws against disclosing secrets, but, except in the case of atomic bomb information, no law permits halting publication in advance. If Snepp or Stockwell or anyone else violates these laws, they should be prosecuted. But in the Snepp case, the court in effect legislated a remedy and a result Congress never contemplated, even though the legislature

has addressed the problem. As Justice John Paul Stevens says in his dissent in Snepp, "the court seems unaware of the fact that its drastic new remedy has been fashioned to enforce a species of prior restraint on a citizen's right to criticize his government."

Equally troubling is the manner in which the Supreme Court reached for a decision it was not required to render on the case before it. Without the benefit of either briefs or oral argument, the court dismissed Snepp's First Amendment defense in a footnote and granted the government an unprecedented form of relief that the solicitor general had said was not necessary to protect the CIA's interests in the case. Bell says the case was "so simple as to warrant summary disposition," but that is the prosecutor's view. When judges act like prosecutors, one might question their motivation, and in this case the feeling among many First Amendment lawyers is that the court was reacting to unrelated events, such as the disclosures in "The Brethren," the Bob Woodward-Scott Armstrong book about the Supreme Court itself.

Given the selective nature of the prosecutions and the far-reaching and unnecessary Supreme Court decision, one can hardly agree with Bell's view that "the nation is better off for the decision." Rep. Les Aspin (D-Wis.) recently said the CIA appears to have "a very arbitrary and capricious system," giving "the impression, if not the fact, of their going after the CIA's critics and leaving the 'old boy network' alone." The CIA has enough real problems without creating unnecessary reasons for criticism. It should now draw back from the Snepp decision or the Congress will act to reverse it.