

It's Up to the Press, Not Congress, To Police CIA Ties

By Philip L. Geyelin

*"Congress shall make no law . . . to abridge the freedom of the press."
— from the First Amendment to the Constitution.*

A SENATE INTELLIGENCE subcommittee is busy making a law to abridge the CIA, so to speak, from interfering, one way or another, with the free flow of news. The aim is both admirable and unassailable, given the unsavory and unsound CIA/press connection, however limited, that was allowed to develop in past years.

And a strong case has been made by an impressive array of reporters, editors and other media spokesmen that the American news business has been so compromised at home and abroad at the hands of a hyperactive and insensitive CIA that it positively requires some sort of good housekeeping seal of approval in the form of strict new statutory prohibitions guiding CIA/press relations in the future. The argument is that executive regulation by presidents and CIA directors, even if publicly proclaimed and subjected to faithful congressional oversight, is not enough.

Perhaps. But I am troubled by the idea of trying to manage anything as complex, subtle and diverse as the relations between the press and a clandestine intelligence service by passing laws. In the course of preparing a comprehensive charter to govern the future of the CIA, and in its zeal to restrict the freedom of the agency to subvert the press, it seems to me entirely possible that Congress could wind up making a law that would in fact abridge — or threaten to abridge — some part of the freedom of the press that the First Amendment was intended to protect.

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John Coulter for The Washington Post

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My doubts derive not only from some years as a newspaper reporter and editor but also from a brief encounter — or, rather, a series of spasmodic encounters — with the CIA. Let me be quite precise: In 1951, I worked for the CIA in Washington on leave of absence from the Wall Street Journal. Later, as a foreign correspondent and a Washington diplomatic reporter for the Journal, I frequently had the sort of contacts with CIA officials that news people have with any other sources.

More recently, I requested the opportunity to find out exactly what was in the files that the CIA had kept under my name. What I found, among other things, were cables to Washington from unidentified overseas CIA operatives abroad, citing my earlier CIA employment and advancing various proposals to create some sort of "agent" relationship with me while I was working abroad — proposals never acted upon or presented to me in any serious way. Also recorded were reports of my end of the conversation in interviews and briefings that even then would have struck me as being of astonishing insignificance, but apparently constituted "intelligence" to the CIA at the time.

Item: A report of a conversation I dimly remember having with a long-time friend, who happened to work for CIA, in which I noted that in a recent interview the French prime minister of that time had indicated to me that he had been impressed by President Eisenhower at a recent meeting (a piece of fluff, it was duly noted, that had apparently found its way into John Foster Dulles' morning briefing a day or so later.) Item: A CIA memo, apparently furnished to the Pike Committee investigation of the CIA, asserting that I had provided two "economic reports" to the agency after a visit to Cuba in 1964 (these turned out to be two observations, each one sentence long, that I had made verbally to a Washington-based CIA intelligence analyst for the simple purpose of soliciting reaction.) Item: A reference to me as a "willing collaborator" which, it developed under questioning, was the CIA's quaint way of describing "anybody who would knowingly talk to a CIA official." Item: A judgment that my weak grasp of the French language made it doubtful that I could be of much use to the agency in Paris — at the least, an unkind cut, if not actually a *canard*.

A Need for Laws?

FROM ALL OF THIS I conclude several things of varying consequence. One is that no very useful purpose would be served by the proposal of at least one prominent newspaper executive to lay bare, indiscriminately, the records of all the CIA's past dealings with the media; having compared experiences with a number of colleagues, my guess is that the files on most foreign correspondents of long experience would invite as much misinterpretation — and incomprehension — as my own.

Something else that strikes me is that the CIA's "spies," as they are so exotically referred to, are really bureaucrats at heart, with all the attributes and also all the same instincts for self-aggrandizement, make-work and displays of initiative and accomplishment as other bureaucrats — but with perhaps an extra dash of imagination and creativity. This



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By Geoffrey Moss for The Washington Post

would be reason enough for requiring, as the American Society of Newspaper Editors has recommended, that the CIA maintain, with news people, a strict "hands-off rule worldwide."

But the question remains whether this is something that lends itself to law-making. And the answer, it seems to me, has something to do with how important — and distinctive — you think the CIA/press problem is in relation to all the other CIA excesses and abuses (assassination, subversion, the promotion of *coups d'état*, the unacknowledged use of private institutions and organizations, and otherwise overt government activities as "cover" for intelligence operations) that confront the Congress in its efforts to ring down the curtain on the horror shows of the past.

One could argue that the question of what sort of dealings the CIA ought to have with the press is not a very big deal — the press provisions account for only a page or two of the 263 pages of the bill (S. 2525) now before the Senate — and not all that different, on its face, from all the other hard questions about the agency's future role. Should there, for example, be *any* "covert" CIA activity, known only confidentially to a privileged few figures in the executive branch and in congressional oversight committees? What particular undercover activities should be circumscribed by law? What kinds of "cover" are legitimate for intelligence-gathering purposes — students, priests, trade unionists, businessmen, academics? Whatever answers you may come up with to those questions, it might be argued, should apply with equal force to those engaged in the news business. But there is, of course, an important difference with respect to relations between the CIA and the media — a *constitutional* distinction growing out of the press' particular constitutional protections.

When the press asks for legislation to protect itself from exploitation in one way or another by the CIA, what it is asking, really, is for the government to save it from itself.

Hence the strong support from news business representatives for the legislative approach in general, and for the press provisions of S. 2525 in particular. As it now stands the bill would forbid the CIA or "any entity of the intelligence community" from paying or providing any other "valuable consideration" to accredited American journalists for intelligence activity. The same ban would also apply to regular contributors (not necessarily accredited) to any "United States media organization, and to anybody regularly editing or setting policy for American news organizations." It would bar CIA from distributing abroad any publications or film or video or audio tape if "the likely result" would be that it would find its way into the United States without CIA attribution. And the draft legislation would prohibit the use of real or "ostensible" journalistic "cover" for any employes or agents of a U.S. intelligence agency.

Now a case can be made for all of these prohibitions — and perhaps even an additional ban, not now in the draft legislation, against CIA use of foreign news media as well — just as a case can be made that the press has been gravely compromised by what has been disclosed about past CIA involvements. The number of news organizations or their employes charged with past CIA connections of one sort or another is in the dozens, if you accept the figures of former CIA director William E. Colby or the results of an exhaustive series by The New York Times. Or it can climb as high as 400, if you accept the estimates of Carl Bernstein (in Rolling Stone), who in reaching that number draws no distinction between casual give-and-take between reporters and CIA operatives, on the one hand, and the acceptance of pay for assigned intelligence missions, on the other.

The fact is that the numbers don't matter; if the word is about that only a relative handful of American news organizations or personnel has links to a government intelligence agency, a cloud hangs over all. So it is certainly arguable that the American news business now requires something more than mere statements of good future intentions from all concerned — not just for its reputation, but for its peace of mind.

But that argument, however highly principled, seems to me to be at war with some other principles — and also at odds with today's realities. It is worth remembering, just to begin with, that in the relationship between the CIA and the

press, we are not dealing with the journalistic equivalent of rape. We are dealing with transactions between consenting adults. And we are not dealing with the CIA of, let us say, 20, or 10, or even five years ago — the CIA as it is pictured in congressional intelligence committee reports and the memoirs of disaffected former agents: beyond effective control and oversight, caught up in a Cold War psychology, run by an old boy net of driven men, insulated from public sensibilities.

Remnants of all that may well exist in today's CIA. But not to acknowledge that the times, the circumstances and the CIA itself have all undergone considerable and self-evident changes is to risk fighting the last war, with the wrong weapons, against the wrong target. The CIA may be nearly unique in its clandestine nature. But it is still only a part of a larger intelligence community scattered through the government. This community, in turn, is only a piece of the government. Thus a lot of the things that you might be circumscribing by law, with respect to the relationship between the press and the intelligence community, are not all that different in kind from conflicts of interest that apply with equal force to the relationship between the press and the rest of the government.

Good Reporters Resist

THE POINT IS that newspaper organizations and those who work for them under the special protection of the First Amendment ought to have no working relationships of any kind with any part of government that are not openly acknowledged as a part of the business of professional journalism. Just as news people should not be in the business of furnishing intelligence to the government in a conscious, calculated way, for pay or out of some misguided sense of patriotism, so they should not write speeches for politicians or perform services of any kind for any agency or element of government.

The real question is whether *any* of this activity is something that ought to be prohibited by law. Surely when news organizations are compromised, there has to have been some element of willingness on somebody's part to be compromised. And if this is so, it would seem to me to follow that when the press asks for legislation to protect itself from exploitation in one way or another by the CIA, what it is asking, really, is for the government to save it from itself.

This is not a favor that the press should be asking of gov-

ernment — along with just about any other conceivable favor. For once the government begins to legislate favors for the press it establishes a precedent which clearly begins to run counter — or so it seems to me — to the whole concept of the First Amendment's protection: that the Congress shall "make no law" abridging the freedom of the press. A press that becomes dependent on special favors or protections or "shields" or other benefits from government becomes exceedingly vulnerable. Today's favor may be tomorrow's abridgment, once the habit of legislating the working of a free press takes hold.

That is why, with certain exceptions over which the American press can exercise no direct control — CIA propaganda activities within the United States, the use of journalistic cover for intelligence agents, the exploitation of foreign newsmen abroad — I am troubled by resort to a statutory remedy. The problem is nicely illustrated in a passage from a statement prepared by the Senate intelligence subcommittee staff for the hearings on the press provisions in the bill. It notes that a line was drawn in S. 2525 between paid relationships between the CIA and members of the media and voluntary relationships. It goes on to ask "whether this in fact is the proper place to draw the line and whether the line is itself sufficiently distinct." And the next questions get to the nub of the problem: "Should journalists be permitted to swap information with the CIA? Should they be permitted to get briefings before visiting a particular foreign area? Should they be permitted to report voluntarily information they derive from such visits?"

Permitted by whom? If the committee staff is wondering whether these voluntary exchanges of information are amenable to statutory control, my answer would be no. But if it is wondering whether journalists should be permitted to do all these things by their news organizations, my answer would be yes — insofar as the swapping of information and the briefings are part of normal news gathering.

And they are. Reporting is not a game of fish; you do not ask your sources to give you all their kings or tens or aces. More often than not, you are presenting a piece of information you have received for comment and response. From your standpoint, you are reporting. From the standpoint of your source, whether it is an agricultural attache or a White House spokesman or a CIA official, you are also *conveying*

information. And when the CIA official reports that information, as they tend to report faithfully whatever scrap of information they acquire from any source, the resulting cable or memorandum to headquarters, complete with cryptonyms and intelligence jargon, inevitably acquires the cast of an intelligence report. And yet it seems to me that these exchanges of information are not only well within the bounds of professional journalistic performance but also well beyond the bounds of statutory regulation.

The staff memorandum goes on to ask whether there is a danger that if voluntary relations with the media are permitted by statute, the CIA will somehow tend to favor cooperative reporters with information and "thereby exert pressure on reporters to be cooperative?" Probably so. But this is one more example of why it is unwise to consider the CIA in isolation from every other part of government, for every other part of government from presidents on down spends a good deal of time and energy trying to "exert pressure on reporters to be cooperative."

Good reporters resist; no law can save bad reporters.

So I would agree with what The Washington Post's ombudsman, Charles B. Seib, had to say in a recent column: "The CIA's stock-in-trade includes deception and covert manipulation. It does the nation's undercover dirty work. The press, on the other hand, has only one justification for its special status in this country: its ability to inform the public fully and without bias or restraint." But I don't accept his conclusion that "the twain can never meet."

Nor would I entirely accept the view attributed to Ward Just, a former Post correspondent and editorial writer, that reporters should have little or nothing to do with intelligence agents because "they live in a different temperamental world than the rest of us, and you have to be goddamned careful when you get around them." Journalists have to be goddamned careful when they get around a lot of news sources who live in "a different temperamental world" — Soviet diplomats, for example, the military, members of the White House national security staff, politicians, perhaps — maybe even fellow journalists.

Similarly, I would agree with Ray S. Cline, a former high official of the CIA who told a House committee recently that journalists working abroad and CIA agents "all are searching for nuggets of truth about the outside world. They all try to acquire reliable sources, whose identities they often feel it necessary to protect, and in every case their credibility depends on a record for objectivity and accuracy." But I don't accept Cline's description of these parallel efforts and interests as a "natural affinity"; on the contrary, the press ought to have with the CIA the same natural adversary relationship that it ought to have with all the institutions with which it must deal.

A Question of Consent

IS THERE, then, any room for statutory regulation? And if so, where do you draw the line?

I think it comes down in the end to this question of consent. News organizations and their representatives can control their direct relationships with the intelligence community. But they cannot, for instance, control the use by intelligence agencies of journalistic cover for their own agents. That's one problem that lends itself to the strictest kind of executive regulation, at least, if not actual restriction by law. The same may be said for CIA propaganda activities within the United States — the use of one sort of cover or another for the covert distribution of information designed to advance CIA interests.

The problem of CIA employment or other use of *foreign* newsmen is more difficult, because it goes to the wider question of CIA employment or exploitation of foreigners of all kinds — the payment of money to politicians, efforts to recruit local government officials as agents in foreign countries, clandestine relations with business or labor, and all the rest. A good case can be made with respect to foreign journalists that the U.S. government should lead by its example — that the CIA should treat foreigners no differently than it does American news organizations and news people — if American values are to have any meaning. But this raises a legitimate question of definition: certainly, the CIA should not subvert a free press in that minority of countries around the world where a free press exists. I am less sure about whether the CIA should be forbidden by law, or even by executive regulation, from having anything to do with representatives of "news media" in foreign countries where the "media" are demonstrably an arm of the government.

One last point: Considerable concern has been expressed in the news business and elsewhere about CIA propaganda activities abroad which have the effect of promulgating false information or promoting the publication of spurious material that could find its way back into the American communications stream. This is nothing that an agency of the U.S. government can proudly engage in. But the promulgation of misleading, deceptive or even downright false information is also something that American government officials do from time to time, and sometimes openly, at home. It seems to me that enforcement of such a provision abroad would be difficult. In any case, the best protection for the American media and the American public against bad information is good reporting.

In other words, this would seem to me to come under the category of those things over which a professional and responsible press can exercise control. That's where I would draw the line on statutory rules and restraints — with those matters that are subject to the control or consent of the American media.

At best, what we are talking about most of the time, in connection with past abuses, excesses and conflicts of interest in the relationship between the press and the CIA, is seduction. A better way to put it might be prostitution. But if that's what we are talking about, it seems to me that we in the press are obliged to remember who it is, in these transactions, that is playing the part of the prostitute.