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SUBJECT CIA Director Warns Press on Security Leaks

FRED GRAHAM: The government and the news media are supposed to maintain an adversarial relationship. But now there's an air of confrontation between the two sides. CIA Director William Casey is seeking the possible prosecution of a reporter because of a story on a current spy trial.

We get details now from CBS News correspondent David Martin.

DAVID MARTIN: Accused spy Ronald Pelton watched today as jurors were selected to try him on charges of selling Moscow secrets about American eavesdropping operations. Outside the courtroom, a major clash is building between government and press over whether some of the same secrets Pelton allegedly sold the Russians can now be told to the American public.

CIA Director William Casey has asked the Justice Department to consider prosecuting NBC News for reporting that Pelton apparently gave away one of this country's most sensitive intelligence operations, in which American submarines are believed to have slipped into Russian harbors and listened in on Soviet communications. Casey cited a 1950 law which makes it a crime to publish classified information about communications intelligence.

This latest battle between government and press, between national security and the public's right to know is just beginning.

GRAHAM: With us now, former CIA Director William Colby. He served between 1973 and 1976, when the CIA and the press clashed a number of times.

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Mr. Colby, this is the first time in the long history of the CIA that a Director has seen fit to ask the Justice Department to consider prosecuting a reporter. And at the same time, Director Casey has been warning other publications that they too could be prosecuted.

Now, what could justify this change in the way things havea been between the CIA and the press?

WILLIAM COLBY: Well, in the first place, the press for many years was quite reticent. It didn't publish things that it thought would injure our security, in some fashion or other. That began to change in the mid-Seventies. The press took a much more aggressive position.

At that point, the question was whether they had transgressed any particular law. There are a very few statutes that outline some very sensitive areas which they say should not be published, in so many words. That's what the Congress determined.

Now...

GRAHAM: Let me ask you about that.

COLBY: ...Casey has an obligation, established by the law, to protect intelligence sources and methods.

And so, faced with a clear transgression of a clear law, he had no alternative, I don't think, but to say, "This should be brought to the attention of the Justice Department." That didn't mean that he was out grabbing somebody and putting him in jail. He was recommending that the Justice Department look at it.

GRAHAM: Surely, under your tenure there were clear violations of clear laws.

COLBY: Not of communications intelligence. No, I don't think you saw that kind of a problem.

GRAHAM: I remember a few years back when the story came out that we were able to listen to one of the Russian -- a clear violation, wasn't it?

COLBY: Perhaps, but really of no great significance, no great importance.

GRAHAM: But why was this important? The Russians know these secrets already. The spy allegedly told them.

COLBY: Well, but it's a matter of embarrassment. The problem about the U-2...

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GRAHAM: But that's interesting. Embarrassment?

COLBY: Embarrassment of the Soviets. This can be critical.

GRAHAM: Explain that.

COLBY: The U-2 aircraft flew over the Soviet Union for a number of years. Mr. Khrushchev knew it was flying over. He finally shot it down.

GRAHAM: But are you saying...

COLBY: At that point, he was content to let the thing go.

GRAHAM: Mr. Colby, I think you just said that we should prosecute an American reporter because he's embarrassed the Russians.

COLBY: No. Because he's going to create an international problem over intelligence matters, and because the law is very clear as to the fact of what he should publish and what he should not.

GRAHAM: Well, I find...

COLBY: This is not a business of disclosing all our secrets or minor secrets, or anything else. It's a very narrow category of secrets.

GRAHAM: Well, this is a statute that says that methods of electronic surveillance...

COLBY: Right.

GRAHAM: ...shall not -- that it can be a crime to disclose methods of elec -- but in recent years, more and more of the information that this country knows come from electronic means. We're in an electronic age.

Now, under your theory, that could close the window of what the American public can know for such reasons as what you just said, because it might embarrass the Russians.

COLBY: But you have an equal statute that says that the Director has to protect intelligence sources and methods.

Now, if you don't like the statute, amend it. There's no problem.

I happen to be for a shield law, which would say that

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the newsman is free; the leaker should be punished. But that's not the law. The law is very clear and plain.

GRAHAM: You know, our top leaders, including the President -- the President goofed the other day and he let out one of these secrets. Should he be prosecuted too?

COLBY: If you have the authority to classify, you inherently have the authority not to classify.

GRAHAM: But I think you're trying to say that the Director of the CIA has no discretion, that he should prosecute anyone...

COLBY: No. He has discretion. He obviously is dealing with -- and I don't want to talk about the specifics. But he's obviously dealing with a very, very sensitive operation. And he's very upset at the fact that this is coming out and becoming an international issue, which can affect us not just in the past, but in the future.

GRAHAM: Could it be this? See, it's hard for a person who doesn't know all that you know about this to see why telling the world secrets that the Russians already know is so sensitive. Could it be this? Could it be that in this case what this NBC reporter told was that our submarines were laying in the waters close to Russia and surveilling them? I mean the Russians know that. But maybe we're doing that to other countries, and they didn't know it. Is it that kind of thing?

COLBY: I am not going to comment about the operation. I'm not going to comment at all about it.

The fact is, though, that you can create a major international issue by publicizing an event that the other side may know quietly, but doesn't have to react to publicly. If it's rammed down his throat and pointed out to the world, then he's going to have to do something to demonstrate that he can react. And that can hurt us and our sailors.

GRAHAM: So what you're really saying is that it's not so much disclosing secrets here that's the harm, because they know those secrets.

COLBY: No, they don't know all the secrets, in the first place. In the second place, they don't know which things they know are true and which are not.

They had a little character who was telling them items. Now, how do they know that what he was telling them was true? If you're going to confirm it, that's very valuable.

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If I had some confirmation of what some Soviet agent was telling me, I would consider it a very valuable addition to my information.

GRAHAM: But, really, on the Today Show?

COLBY: Yeah. Sure. If I could get a Soviet officer to say that a certain agent of mine was a real agent and not a false agent, that would be very valuable to me, because I'd go back over his testimony and I'd say, "Well, I can believe it." Wheras previously I couldn't.

GRAHAM: Thank you very much, former CIA Director William Colby.

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GRAHAM: We're back discussing the current battle between the Reagan Administration and the news media.

With us now, Jack Nelson, the Washington bureau chief of the Los Angeles Times; and John Greaney, a former CIA official, who now runs the Association of Retired Intelligence Officers.

Jack Nelson, if I heard former CIA Director William Colby correctly a few moments ago, he said the two reasons why this has come to pass is (A) he feels that there's an obligation on the CIA Director to recommend prosecution of any journalist who violates one of these statutes, clearly. And two, the real harm here was not that the Russians were given any secrets, because they already knew those secrets, but it might embarrass the Russians.

Now, what do you think this means for the future of relations between the CIA and the press?

JACK NELSON: Well, I don't think it bodes very well for it, Fred. But I'd like to comment on both of the things he said.

I mean, number one, I think that is a major reason that the government always gives, and particular the CIA. If it's not a reason they give, it's a reason they have for not wanting information out, because it's an embarrassment. Not that it's really any real national security risk.

JOHN GREANEY: But Jack, that's what the statute says, is that the Director protects sources and methods.

NELSON: Well, no. That's the other thing. You say that, but now there've been CIA Directors -- this law was passed when, 1950?

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GREANEY: Right.

NELSON: Well, this is the first time in, what, 36 years that any CIA Director has found it necessary to say we should prosecute somebody. This is...

GREANEY: It's the only the first time that it's become public knowledge what they've discussed with the Attorney General.

NELSON: But this -- no, this is a change in policy. This is definitely a change in policy by this Administration. And I think it reflects this Administration's attitude...

GREANEY: On the contrary. You know, if Casey didn't do this, he could be brought up for obstructing justice by not following that mandate. That's a mandate, that's a statute that says that he is responsible for protecting sources and methods.

NELSON: Well, how many CIA Directors have not followed that mandate in the past. You know that's not...

GREANEY: I do know that it's true. And they have referred cases to Justice for consideration of prosecution.

GRAHAM: Give us an example.

GREANEY: I can tell you a case where there was an author that was writing things and quoting documents that were classified. The CIA General Counsel...

GRAHAM: Is that Frank Snepp?

GREANEY: No. This is an author, a newsman who was quoting classified documents in the press. And the General Counsel went down to talk to the Attorney General about not trying to get anything more than retrieve the things. And the Justice Department refused to do it.

NELSON: Mr. Greaney, you've got to acknowledge that this is a change of policy when CIA Director Casey makes a public issue of it. They've never made a public issue before now.

GREANEY: Well, I think he's gone to the press. He went down to see Ben Bradlee to persuade him privately. I think it came as a shock to him and a surprise that NBC broadcast this at seven o'clock in the morning on their news show. I think it's an element of surprise. If he had the opportunity...

GRAHAM: You mean he was still in a state of shock when

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he put out the word that he was going to go and see the...

GREANEY: I think his reaction was that this was such a sensitive piece of information, the only thing he could do was to go to the Attorney General.

NELSON: I can't believe that Mr. Casey was in a state of shock. This is the kind of information that has been published for the past 25 years, that submarines had been intercepting message. You know that. I mean it's been in newspapers, it's been on television for past 25 years.

GREANEY: As Mr. Colby said, however, the fact that this is confirmation of an extremely low-level agent gives the Russians such an advantage. When you get confirmation of these things, that's the danger. It's not the embarrassment. I would take umbrage with your statement of embarrassment.

NELSON: Well, that's what Mr. Casey said.

GRAHAM: I thought I heard Mr. Colby say that.

NELSON: I mean Mr. Colby.

GRAHAM: But didn't Mr. Casey highlight this when he -- I mean the Russians don't watch the Today Show, or certainly...

GREANEY: I'm sorry. They watch every piece of television.

GRAHAM: But didn't he highlight it when he made this issue of it?

GREANEY: No. I think he's doing what the statute requires him to do.

GRAHAM: Well, he didn't have to do it publicly. He put out a press release saying that he was referring this case to the Justice Department.

GREANEY: Because it ws such a serious, sensitive matter, that he wanted it called to the attentionof the press, to all the media.

GRAHAM: We have two minutes here. I want to ask you each a question. First, Mr. Greaney.

Isn't Mr. Casey out to intimidate the press now? For good reasons or bad, he's trying to.

GREANEY: I think Mr. Casey would go to the Attorney

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General if it was his mother that was giving away secrets. He wants to defend the Constitution and adhere to the statute. I don't think he has a bone that is out to get the media. He wants to stop leakers, is what he wants to stop.

GRAHAM: Jack Nelson, should the press take it upon itself to decide when something harms the national interest?

NELSON: Well, I think the press has a duty to try to find out what the government is doing, no matter what it might be, and to report on it. And I don't think that they need to be that concerned.

Look, if it's concerned about...

GREANEY: They don't have to be concerned?

NELSON: No, wait a minute. No. They do have to be concerned about national security. And wait a minute. Katharine Graham of the Washington Post, right now, and Ben Bradlee of the Washington Post are taking into consideration what William Casey has asked them to do about this particular article. They haven't run it yet. And as a matter of fact, I mean the CIA, CIA officials have told me that they believe the Post is in the process of removing whatever damaging material there may be in there.

So, I think to paint the press as somebody who doesn't care about national security...

GREANEY: But I don't think anybody is doing that. I think Casey would have -- if Casey had had the opportunity, had been told that NBC was going to run this story, I thik Casey would have talked to NBC, the same way he did to...

GRAHAM: Do you think the media should clear their stories with the CIA? Is that what you're suggesting?

NELSON: That's the point.

GREANEY: When it's a sensitive matter, yes.

GRAHAM: A sensitive matter? So many things we report, important things, are sensitive matters.

GREANEY: I think that the Director of Central Intelligence, who has the statutory control of the intelligence community, is the one to determine whether material should be made public or kept quiet.

GRAHAM: And not the press.

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GREANEY: That's exactly.

GRAHAM: The people who wrote the First Amendment might wonder about that one.

Mr. Greaney, thank you. Our time is up.

Mr. Nelson.

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