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# Wilson's Case Could Define The Power of Spies on Trial

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WASHINGTON — If the case of Edwin P. Wilson, the former American intelligence agent accused of illegally aiding Libyan terrorists, goes to trial later this year, the issue of classified information is certain to play a pivotal role in the proceedings. In pretrial hearings and motions, Mr. Wilson's attorney, Herald Price Fahringer of New York, has threatened to introduce as evidence national security secrets which he says will "shake the C.I.A. to its foundations." The Justice Department is expected to present its initial response early in September in papers due to be filed in Federal court here.

Not long ago, such threats would have posed serious, even insurmountable, problems for prosecutors handling a criminal case involving sensitive national security information. The prospect that classified information would be revealed in the course of a public trial often outweighed law enforcement interests, hampering and in some cases actually blocking prosecution.

The defense tactic, called graymail because of its similarity to blackmail, was the bane of the Justice Department. Former Attorney General Griffin B. Bell, in "Taking Care of the Law," a recently published book about his service in the Carter Administration, describes the problem of graymail as "appalling."

Theoretically, that should no longer be the case. In 1980, Congress enacted the Classified Information Procedures Act. The legislation established special guidelines for dealing with sensitive information in criminal cases, including closed pretrial hearings to determine whether such evidence would be relevant and admissible. In addition, if a judge rules that the material should be admitted, the law gives the Government the right to appeal before deciding whether to modify or drop prosecution.

The Wilson case promises to be the first major test of the new law. Before leaving Government employment in 1976, Mr. Wilson had worked as an American intelligence agent for 22 years. Mr. Wilson specialized in creating and operating fictitious companies used by intelligence agencies to launder money and disguise covert operations. He was involved in the U-2 spy plane project and the Bay of Pigs invasion of Cuba in 1961.

In 1976, according to the Justice Department, Mr. Wilson and another former C.I.A. employee, Francis E. Terpil, reached an agreement with Col. Muammar el-Qaddafi, the leader of Libya, to sell their expertise in intelligence and military matters to help train terrorists. The two former agents were first indicted by a Federal grand jury in 1980 on charges of illegally shipping explosives to Libya and conspiracy to commit murder. Mr. Wilson was apprehended two months ago. Mr. Terpil remains a fugitive, reportedly living in Beirut.

Mr. Wilson's lawyers say they will contend that the C.I.A. sanctioned and supported Mr. Wilson's operations in Libya. The intelligence agency has repeatedly denied any official involvement in the scheme, but Wilson associates have claimed that several senior agency officials were aware of the Libyan venture when it began and asked participants to collect information about Libya and its sponsor, the Soviet Union.

Mr. Fahringer has said his client has evidence of just such complicity. If so, it is likely to include classified documents and information about the operations of the C.I.A. Even if Mr. Wilson lacks such hard evidence about an agency role in Libya, he may possess other sensitive information acquired during his career. Even a partial reconstruction of his Government service, for example, would likely involve sensitive subjects such as the methods used to operate intelligence-gathering networks.

The identities of current and former covert agents could also be relevant to his case. Few issues concern the C.I.A. more, and President Reagan recently signed legislation that makes the naming of agents a crime.

It was such concerns that scuttled criminal cases before enactment of the graymail law. Mr. Bell, in his book, cites one: "We had to drop the prosecution of two International Telephone and Telegraph Corporation executives for testifying falsely about helping the C.I.A. in Chile because a judge balked at accepting a proposed Government protective order on national security material."

Perhaps the best known case involved Richard Helms, the former Director of Central Intelligence who faced potential charges of perjury for misleading a Senate committee about his agency's covert involvement in Chile in the early 1970's, when the C.I.A. tried to block the election of Salvador Allende. Though Mr. Bell denies in his book that graymail was a factor, the Carter Administration agreed to let Mr. Helms plead no contest to misdemeanor charges.

Earlier this year, the Justice Department delayed prosecution of a former Mexican Government official suspected of involvement in a car theft ring in California because the C.I.A. said the man had been an important intelligence source. Though the suspect was eventually indicted, the United States Attorney in San Diego, William H. Kennedy, was dismissed by President Reagan when he complained in public about the delay.

The Wilson case, C.I.A. officials say confidently, should not produce such problems. An internal investigation of his activities has convinced them he has no startling secret information that would compromise or embarrass the agency. Federal prosecutors and investigators still examining his ties to former senior agency officials say they are not so sure.

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