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Cloak-and-Dagger Relics

If the investigation ordered by President Reagan were to identify an official of the executive branch as having disclosed information about the anti-Qaddafi operation to *The Washington Post*, that person could be prosecuted for espionage. This is the result of the precedent set when Samuel Loring Morrison, former Navy intelligence analyst, was convicted under the 1917 Espionage Act for having provided three classified satellite photographs of a nuclear-powered Soviet aircraft carrier to Jane's Fighting Ships.

The problem becomes stickier, however, if it turns out to be a congressional source. On one occasion, in 1975, the Justice Department threatened to withhold classified information from the House intelligence committee if the material was not protected from disclosure. But it has never been suggested that a member of Congress could be disciplined other than by Congress itself.

This is relevant because (I don't think that I am baring any great journalistic secrets) the exposure of covert intelligence operations is frequently a form of congressional whistle-blowing. A leak often occurs when a clandestine plan runs into substantial opposition during a briefing for congressional committees.

For example, in 1974 the Nixon-Kissinger plan to undermine Chile's President Salvador Allende leaked to the press (Seymour Hersh of *The New*

York Times) at a time when it was a subject of intense criticism by some members of Congress.

In 1975, the CIA's support of the anticommunist faction in Angola (also a Kissinger project) was disclosed after it became an issue in the House Foreign Affairs Committee. The late Rep. Leo Ryan, a member of that committee, told me in an interview at the time that he could condone such a leak if it was the only way to block an ill-conceived operation.

Ryan was subsequently the author, with Sen. Harold Hughes, of legislation that banned CIA involvement in Angola. (That provision was recently repealed.)

To minimize damaging leaks, the congressional leadership eventually agreed to restrict briefings on covert operations to the Senate and House intelligence committees. That did not, however, solve the problem.

In 1983, Sen. Barry Goldwater, then chairman of the intelligence committee, put on the public record the CIA-organized mining of Nicaraguan harbors with a letter to CIA Director William Casey objecting to the operation. (That letter became a prime exhibit in Nicaragua's complaint to the International Court of Justice.) Sen. Jesse Helms was charged with—but denied—having revealed CIA covert aid to the election campaign of El Salvador's President Jose Napoleon Duarte.

Libya's Muammar Qaddafi has been the subject of a previous leak. In August 1981, *Newsweek* reported that opposition had developed in the House intelligence committee during a briefing on a plan to destabilize the Qaddafi regime. The Reagan administration denied the existence of any such plan. There followed a scare over reported Libyan "hit squads" out to murder President Reagan. Intelligence officials now believe there were no such "hit squads"—that the whole thing was a hoax meant to put Reagan on notice that plotting against a president could be a two-way street.

That has apparently not deterred the president from approving one more plan to undermine Qaddafi. Once again the leak occurred shortly after briefings in the congressional intelligence committee.

By law, the administration must give timely notice to Congress of plans for covert operations. The intelligence committees and their staffs are supposed to respect the secrecy of the information. But, in an era when covert aid to Nicaraguan contras is openly debated, the old-style clandestine operation may be a thing of the past.

It may be time to consign the cloak and dagger to a museum. Anyway, the cloak.

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