

The Media — and Government Leaks

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A report on a conference cosponsored by the ABA Standing Committee on Law and National Security and the Media Institute of Washington, D.C., on March 23, 1984.

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FOREWORD

The pages that follow contain the transcript of a panel discussion on "The Media and Government Leaks." The panel discussion was jointly sponsored by the Media Institute and the Standing Committee on Law and National Security of the American Bar Association, as part of an on-going series of public discussions devoted to the questions that arise at the point of intersection of first amendment rights and national security considerations.

Few suggest that the first amendment should be treated as a categorical imperative which overrides all national security considerations. On the other hand, few would defend the view that national security issues override all considerations of the first amendment. Reasonable men agree that there is a line to be drawn somewhere—the "somewhere" varying from situation to situation. Men who are equally thoughtful and equally concerned about the preservation of our constitutional freedoms may differ on where to draw the line. But we can only benefit from a full public discussion of the issues involved.

In the three panel discussions, we sought, through the participation of those whose primary interest is both national security and the first amendment, to throw light on a series of questions bearing on the media and national security. The first question we sought to answer was what is the responsibility of both the government and the media in dealing with leaks. In the second panel, using the Grenada experience as a case in point, we considered the matter of the role of the media during periods of conflict. In the third and final panel, we looked into policy questions more broadly, examining such issues as "Should the United States Have an Official Secrets Act?" and "Is Polygraph Testing Acceptable in a Democracy?" as a means of suppressing leaks.

The Standing Committee on Law and National Security is grateful to the distinguished panelists who participated in this discussion. It hopes that such frank exchanges will serve to reduce differences and point the way to a policy consensus.

John Norton Moore, *Chairman*
Standing Committee on Law and National Security
Washington, D.C., 1984

Panel I

**Official Leaks:
Is the Media Responsible?**

**Leaks and the Media:
Necessary or a Threat to
National Security?**

Panelists

Robert Goralski
Writer
Former NBC News Correspondent

Jerry Berman
Legislative Counsel
American Civil Liberties Union

Floyd Abrams
Attorney-at-Law
Lecturer, Columbia University
School of Law

ROBERT GORALSKI: Instead of framing the issues, I have decided to be a provocateur, and to attempt to categorize news leaks as authorized leaks, nonauthorized leaks, and Jack Anderson-type leaks. The latter we can probably dismiss as irrelevant. Therefore, let us concentrate on authorized versus nonauthorized news leaks, and break those down into the legal and the illegal. Public opinion polls show that most people believe that a great deal of the material they see in the news media is actually illegal to disseminate. Television may be the exception, because news leaks, unless they can be reduced to two or three lines, are usually not of interest to the television medium.

The problem seems to be of greater significance today than in the past. Yet history shows that beginning with the presidency of George Washington every administration has been concerned about leaks. No one has been able to eliminate them, no one particularly likes them, but the press uses them. The first question today is, is the media responsible for official leaks? That seems to me to be like blaming floods on rivers and not on water.

The second question is, are leaks a threat to national security? One reason for concern about that problem is that the media are now under attack. Approximately eighty per cent of all libel and slander cases in the courts today are decided against the media, and public opinion generally is anti-media. In terms of national security, it may be that the threat is not serious, and that often there are legitimate reasons for leaks. I think most newsmen would argue that most news leaks are self-serving. The question is, who is being served?

JERRY BERMAN: Over the last couple of years, I have been dealing with a range of initiatives by this administration to expand secrecy and to plug leaks: attempts to rewrite the Classification Order, to pass a broad version of the Intelligence Identities Protection Act, to rewrite the Freedom of Information Act, to implement a program of lie-detector tests, to require prepublication review of material written by government officials with access to sensitive information, to bar the press in Grenada. This is an administration that believes that leaks are everywhere and must be stopped.

The answer to the question of whether the press is responsible for leaks is, nonsense! The question assumes that the obligation of the press is to protect government information. It is quite the opposite: the obligation of the press is to seek out and publish the news, not to make a judgment about what is and what is not a government secret. Many of the most famous news leaks, including the Pentagon Papers case, were not based on diligent investigative reporting, but were the result of government officials, for one reason or another, giving information to the press. I think the responsibility lies with the government.

Although I would not question the fact that some leaks may endanger national security, I would argue that they are necessary in this

country, because in a democratic society the national security interest must be balanced against the public's right to know. The present administration has tried to expand government secrecy for the first time in four administrations. You have to go back to the Truman administration to find an attempt to increase the amount of classified information. This administration has done so by changing the criteria for classifiable information. Congress has been almost completely condemnatory of administration policy, and has blocked almost every one of the initiatives proposed. It has refused to permit rewriting of the Freedom of Information Act or to give the Central Intelligence Agency a broad exemption under that Act, will not appropriate money for polygraph tests of persons in the Defense Department, and has stopped the proposed prepublication review program for government officials. I believe these actions were motivated by a sense that without leaks this government would grind to a halt, that Congress could not do its job, and that—given the broad scope of classified information—this country has become dependent on leaks in order to operate.

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There is a need for open debate on this issue. Most leaks are the result of official acts. It is not the role of the press to help the government protect information, but to publish it.

FLOYD ABRAMS: I shall read a paragraph from an old document, and to keep your interest, I won't tell you what it is: "Practically everything that our government does, plans, thinks, hears, and contemplates in the realm of foreign policy is stamped and treated as secret, and then unraveled by that same government, by the Congress, and by the press, in one continuing round of professional and social contacts and cooperative and competitive exchanges of information. The governmental, political, and personal interests of the participants are inseparable in this process. Presidents make secret decisions, only to reveal them for the purpose of frightening an adversary nation, fooling a friendly electorate, protecting their reputations. The military services conduct secret research in weaponry, only to reveal it for the purpose of enhancing their budgets, appearing superior or inferior to a foreign army, gaining the vote of a congressman or the favor of a contractor. The Navy uses secret information to run down the weaponry of the Air Force. The Army passes on secret information to prove its superiority to the Marine Corps. High officials of the government reveal secrets in the search for support of their policy or to help sabotage the plans and policies of rival departments. Middle-rank officials of government reveal secrets so as to attract the attention of their superiors or to lobby against the orders of their superiors. Though not the only vehicle for this traffic in secrets, the Congress is always eager to provide a forum and the press is probably the most important."

Those words were written thirteen years ago by Max Frankel, then

the bureau chief of *The New York Times* in Washington, during the Pentagon Papers case. Mr. Frankel was describing his perception of how Washington had worked for the fifteen years he had then been there. As a modest prediction of the way people are likely to continue to behave in Washington, Mr. Frankel, I think, says it well.

One of the things that Mr. Frankel says is that much of what is worth knowing is classified as secret material bearing upon matters crucial to the country. It has been said that these are matters for the government to decide; that's why we have a government. I would argue that it is not the way government should behave. As a legal matter, subject to the Freedom of Information Act, the government has the right to try to keep its secrets, and the press has the right to publish almost everything it gleans from that vast array of secrets. I believe the press serves the public—not disserves it—when it publishes the sort of material we are talking about here.

Let me give you one example of a Jack Anderson-type leak, one of the few which people in this administration have been able to conjure up as one which actually harmed national security. That was the revelation made during the Nixon administration that the administration had decided to "tilt" toward Pakistan during the Pakistan-India war. On one hand, that was a secret; on the other, it was a matter of national policy inconsistent with what the public was being told our policy was. We were being told then that this country was neutral in the Pakistan-India war. We were deliberately misled. I am not saying that the government should never lean toward one country rather than another, but I think that when we are being misled, the public should be told what the reality is. In this instance a real public service was done by revealing that information.

The trouble the press is in with the American public is sometimes overstated. Harris poll figures of October 1983 indicate that nineteen per cent of the American public expressed confidence in the press. Other Harris polls for the same time period show that public confidence in organized religion in the United States is only twenty-two per cent; in business, eighteen per cent; and in the U.S. Congress, seventeen per cent. Also, lawyers rate far worse than the press. The press should be concerned that only nineteen per cent of the public has confidence in it, but it is not the press alone in which the public lacks confidence.

GORALSKI: I believe the only way to control leaks is by the action of the government generally or by the individual department. When an individual decides that a story, authorized or unauthorized, should be leaked, it is going to be leaked. And it is incumbent upon the individual department or the government to control that.

One thing that should be discussed is the manner in which the press reacts to leaks. The Pentagon Papers story in *The New York Times* was available to every newsman in Washington. CBS, on "Face the

Nation," had Secretary of Defense Melvin Laird as a panelist, on the very day that that story was published, yet during that thirty-minute program, Secretary Laird was not asked one question about the Pentagon Papers. Why, I cannot imagine. Perhaps the participants on that program didn't understand the importance of the story.

One matter of great concern is the story which is taken out of context and used merely because it titillates—as on television where a brief excerpt from leaked material is displayed without any attempt at explanation. More and more journalism is being criticized, and I think justly so, for seizing upon the fact that any secret document should be given a play in the press or shown on television.

There are good leaks and bad leaks. Good leaks are those that present reality in a proper perspective. We need this kind of information, since the penchant of any administration, any government, at every level, is to secrete from the public material which it thinks it is undesirable to publicize.

Q. I'd be interested in any comments any of the panelists would like to make about the attempt by the National Security Administration to classify material in the Marshall Library *post facto*.

BERMAN: The ACLU is involved in that litigation. We believe that material should not be reclassified, as it is already in the public domain. As a general rule, it is absurd to reclassify information that is already public.

Q. Mr. Berman and Mr. Abrams, in their professional capacity, represent institutions that have a great impact on American society. I feel that we all have to be concerned about the responsibility to protect the existence and the effectiveness of a free society. I would like very much to hear these panelists acknowledge their responsibility in the world arena.

ABRAMS: There is considerable power in the press. Material published in newspapers or appearing on television has impact. The question is, what should the media do? How should they behave? I would put it to you that the press has as often disserved the public by not printing information that it had, which it decided, for one reason or another, not to publish, than by publishing. The media should—and I think does—pass judgment on everything that is published or broadcast. Stories have to be "newsworthy." We have seen, again and again, journalists deciding to refrain from publishing certain materials. No one would fault the decision made when American hostages were held in Iran not to publish the information that some Americans were being hidden in the Canadian Embassy in Tehran. That story was widely known in the press corps, but was not published because of the sense of responsibility of members of the press.

But there are many cases in which journalists, importuned by government officials not to publish material they had, were sorry that they had not done so. One example is, of course, the Bay of Pigs. *The*

New York Times had information prior to the invasion of Cuba, which, at the request of the government, it did not publish. After the failure of that mission, President John F. Kennedy was quoted as having told the *Times* people that he was sorry that they had not published their story. But if the invasion had succeeded, imagine what President Kennedy would have said.

These are hard calls. They are frequently decided in favor of non-publication, if the government makes a credible claim that national security might be imperiled. I like the idea that high-level government officials feel free to go to journalists and editors and ask them not to print certain information. I think that's the way the system ought to work, and I think it does work when genuine secrets are involved.

BERMAN: The ACLU plays an adversarial role vis-a-vis the government. I think that's our job. We are defense attorneys, and our client is the Bill of Rights. Out of the testing and conflict between civil liberties and national security a balanced approach can emerge. For too long—and it was a disservice both to national security and to a democratic society—claims of “national security” were unquestioned by the press, the public, and the Congress, particularly during the period from World War II through the cold war years. That began to change in the 1960s, certainly with respect to Vietnam. The testing is important, because it forces the government to make its case for secrecy.

In the inherent tension between secrecy and a democratic society, we must try to strike the narrowest balance possible. Better law has resulted when we have made an effective case for civil liberties, arguing that the government's secrecy policies are far too broad.

The case of prepublication review of writings of government officials having access to special information was an effort to stem leaks. When the ACLU and the press opposed it, that opposition led to serious questioning of the administration's position. Former government officials were not the chief cause of leaks. Only two out of 236 unauthorized leaks were traced to information which could have come from former government officials. Most leaks were anonymous and would have not been affected by the directive.

The government should recognize that there is a civil liberties interest at stake, as well as a national security interest, and not simply say, the public mood is on our side, so let's go for a broad spectrum of secrecy initiatives. That attitude probably resulted in killing the compromise version of the Freedom of Information Act legislation this year. Although that may be a civil liberties victory in the sense that the Freedom of Information Act was preserved, there were some portions of that compromise which probably should have been passed. But the government has so poisoned the well in trying to “serve the national security interest of this country” that it has undermined the civil liberties interest without serving the national security.

Right!

Q. My question relates to a security matter involving the United States and Great Britain. A woman in the office of the Secretary of State for Defence leaked to a British newspaper a memorandum from Secretary Michael Heseltine to Prime Minister Margaret Thatcher, giving the date of the deployment of U.S. cruise missiles in Great Britain. The editor decided that this information would not harm national security—either ours or theirs—and published it. He was requested to return the memorandum; he refused. The case went to a British court, which decided that the issue was not whether the editor acted in the public interest in publishing the document; the issue was that a civil servant had decided to disseminate classified information to the public. The responsibility for deciding what should or should not be published is that of the government, not of individual civil servants or journalists. The newspaper was ordered to return the document. Certain material in it indicated the identity of the leaker; she was identified and now faces a jail term.

If this had happened in this country—if the memorandum had been from George Shultz to President Reagan—would you advise a newspaper to return the document?

ABRAMS: The first thing I would say is, thank heaven we have a written Constitution with a Bill of Rights. That is one of the things which distinguishes our country from theirs. As a matter of law, I would advise my client that the government could not get a prior restraint against publication. No American court would say it is up to the government to decide what is published.

There is disagreement among lawyers and judges as to the degree of protection appropriate for journalists' confidential sources. That is part of the issue here. In this case there should be legal protection. In terms of this country's law and tradition, I believe that if these were missiles to be installed here, our courts would decide that the potential for national security harm is so hypothetical it would not be a serious legal problem.

Q. So you would advocate protecting the leaker?

ABRAMS: I would not disclose the leaker. If the leaker were found by other means he or she could be discharged and perhaps imprisoned. Journalists don't like to turn over documents to the government, because hieroglyphics, handwritten notes, even the quality of the paper or the quality of the Xerox may indicate who the informant is. Such a person may be described as a leaker or a faithless employee, or as a source of information to the public. I don't know if anybody would argue that the press has the right to that information, but once that information comes into its hand, the government does not have the right to prevent its publication or to punish the press for having published it.

Q. What is the moral difference between leaking classified information to the press and leaking information from one party headquarters

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to another party headquarters?

ABRAMS: Every leak we have discussed here has involved the press in its capacity as a passive recipient of information, an entity which transmits it to the public. That is quite different morally from breaking or entering; it is quite different from transmitting documents from one party headquarters to another. The notion of receiving information and reporting it is nowhere near the immoral character of taking information from one party headquarters to another.

BERMAN: There is also the distinction that this concerns not the government versus the press—which is being discussed here—but two private entities which may be involved in stealing property.

Q. Suppose that instead of a debate briefing book appearing suddenly in a rival party's headquarters, you, as a reporter, were to find such a book on the street. Would you consider it your duty to print it? And if not, why not? What is the difference?

GORALSKI: If a reporter finds a document on the street, I think he can use it, without disclosing where he got it. But the point is that the leaker and the leakee assume a responsibility for breaking the law. In the case about the memorandum on the cruise missiles deployment, in the United States it is a violation of the Atomic Energy Act to reveal where such missiles are based. Anyone who reveals that information is in violation of the law, and must assume the responsibility for doing so.

I think reporters have the same responsibility to uphold the law as any other citizen. But in the hypothetical case of finding a briefing paper on the street, I should probably use it. That does not violate the law.

I believe there is far more responsibility among newsmen than they are given credit for. The case of Vietnam provides a good example. Of all the thousands of newsmen there, dealing with information, the disclosure of which would possibly lead to loss of life, I think there were only three or four reporters whose credentials were lifted. This speaks very well for the journalistic community. Unlike World War II and the Korean War, there was no censorship of any kind during the Vietnam War. It was really a noble experiment. I believe there was far more responsibility shown by the press in Vietnam than most military men anticipated.

Panel II

**The Grenada Experience:
What Should Be the Role of the Media
During Periods of Conflict?**

Panelists

Neil Livingstone
Senior Vice President
Gray and Company
President
Institute on Terrorism and
Subnational Conflict

Allan Williams Cameron
Executive Assistant to
U.S. Senator Jeremiah A. Denton

Stephen Rosenfeld
Columnist and Deputy Editorial
Page Editor, The Washington Post

Morton Halperin
Director
Center for National Security Studies

NEIL LIVINGSTONE: In framing the issues today, in terms of our over-all inquiry on press responsibility, we will consider a specific case: the Grenada experience. What should be the role of the media during periods of conflict? The controversy over the press exclusion from the Grenada operation highlights this problem as has no other recent event. Many in the press initially ridiculed the rationale for intervention. That was in sharp contrast with the impression made by the return of the American students from Grenada, who kissed the ground when they reached the United States. One had the sense that the public was outraged by the press outrage over being excluded.

Many in the United States today seem to feel that the press is too big for its britches. I think that this is a holdover of the debate about Vietnam and Watergate. There is a feeling in some sectors of the U.S. public that the war in Vietnam was not lost on the battlefield, but, rather, was lost in the press. There is also a lingering question about whether Nixon was hounded from office by *The Washington Post*. Perhaps in a sophisticated seminar like ours today there are not many who would share these opinions, but I suggest that if you cross the Potomac you will find strong and lingering suspicion of the press, predicated on both Watergate and Vietnam.

In the last fifteen years, the press has increasingly been viewed as adversary rather than partner of the government, particularly in times of crisis or military operation. This is in stark contrast to our adversaries in the Soviet Union and the Eastern bloc, and in many other areas of the world, where press freedom is constantly diminishing.

This raises the question of press responsibility with respect to defense, security, and intelligence questions in general, and in Grenada in particular. There are those who say that there should be absolute press freedom. Chet Huntley used to say that journalists were never intended to be cheerleaders for the government and the society. One prominent reporter has stated without reservation that if ever given the opportunity, he would steal military secrets from the desk of the secretary of defense, and has indicated that he would willingly publish the top secret plans for both the Normandy invasion and the Manhattan Project. As to the types of methods the press might use in pursuing a military or intelligence-related story, Robert Scheer has said that the journalist's job is to get the story by breaking into their offices, by bribing, by seducing people, by lying, by anything else to break through the palace guard.

Does the public have the right to know everything, particularly with respect to questions of national security, intelligence matters, and military operations? Thomas Jefferson said he would rather live under a regime of newspapers without government, than under a government without newspapers.

On the other extreme, there are those, who perhaps motivated by excessive paranoia or zeal, believe that the media should be excluded

at all times. Those who subscribe to that view suggest that there should be an Official Secrets Act, such as in the United Kingdom, and that there should be criminal penalties for those who knowingly publish classified material, or release to the public details of a forthcoming military operation. They ask, since when is it unconstitutional to refuse to share important military secrets with the media? And they ask, what gives the media their privileges? Why should the media have a special role in the society?

There are many good reasons for restricting media coverage of sensitive military and intelligence operations. Foremost among those is the element of surprise. Second, the press is an additional burden on troops engaged in conflict and a potential security risk. Third, the other side doesn't labor under the same restraints, as noted earlier, and this gives our adversaries certain advantages. Finally, we are playing for deadly stakes, and recent events in El Salvador and elsewhere attest to the number of courageous journalists who have fallen in battle in pursuing stories which may or may not be vital to the national interest. There is a trade-off between the necessity to risk life and limb on one hand, and on the nature of fast-breaking stories and news coverage on the other. It is issues such as these that my colleagues and I will be exploring today, and we will look at the Grenada experience in particular in framing our answers.

ALLAN WILLIAMS CAMERON: It is true that we live in a free society, and, indeed, that one of the great supports of a free society is a free press. A free press is allowed constitutionally by the First Amendment: Congress shall make no law abridging the freedom of the press.

There is a relationship between the press and government, and that is probably a healthy relationship, a healthy tension. It has been with us a long time. If you go back and look at the press during the Civil War, for example, you find much the same thing. There is absolutely nothing unhealthy about that.

There is a fundamental question regarding public perception of the press as an absolute, unbiased provider of news. I sense there is a feeling among many of our citizens that the press does not do that, or does not do it as well as it should.

Before I came to work on Capitol Hill, where I was in a position to know what the news was before it was reported, I assumed, as many of our citizens do, that the press is always accurate. What I found is that the press is not always accurate, and what we read in the newspapers or see on television may bear little resemblance to what actually happened, or indeed to what reporters were told.

Let me hasten to say I don't think that this represents an intentional distortion. I would tend to ascribe it to carelessness or sloppiness in the preparation of news. I think it is a general phenomenon. It has created a doubt in many segments of the population about the degree

to which the press is in fact providing accurate information rather than becoming the maker of the news itself.

It strikes me that the chief characteristic of the dispute between the press and the administration during the Grenada experience was the behavior of the press rather than the behavior of the administration. The reaction of several well-known representatives of the press was shrill, petulant, childish, and inaccurate. The anchorman for a major network, in showing government-taken film, referred to it—I think five times—as censored film. It was not censored film at all. It was official film, but it was not censored. Had it been network film, and the government had said, you may not show this part of it, it would have been censored. That was inflammatory, and certain of the other comments were inflammatory. And I think the press—some parts of the press, not all of the press—made a tempest in a teapot in this particular case.

There is something to be said on both sides in the dispute, and I think that a healthy result of the Grenada experience is the understanding that has been reached between representatives of the press and the Department of Defense.

One hopes that in future instances—if we are unfortunate enough to have future instances—those understandings will provide a somewhat smoother handling of the problem.

STEPHEN ROSENFELD: I am amazed to find myself in a forum where the issue is framed in an erroneous way by Mr. Livingstone—and carried on in the same way by Dr. Cameron—as press responsibility. To me that is not the issue raised by Grenada. The framing of the issue in those terms is a political calculation, part of a larger political offensive which has been waged against the press, against the First Amendment, against the public's right to know, not just for the three Reagan years, but for many years, at least since the Vietnam period. As far as the press is concerned, the issue is official responsibility. That is the only reason that the press in this country has any claim to exercise freedom.

The two gentlemen whom we have heard so far maintain that the role of the media in periods of conflict is to be obedient, to cringe to authority, to take little tidbits that the Pentagon cares to hand out, and to do nothing that will later lead it to be called childish or petulant. I reject that view entirely. The role of the media during periods of conflict is to tell the story.

We in the media have found ourselves enmeshed in a political argument, where it is said—in complete disregard of what I regard as the faithful interpretation of the Constitution—that the issue is our responsibility. The Constitution did not say that there should be a pussycat of a press. The Constitution had an entirely different theory. It startles me that I feel under some pressure to make a statement like that.

If you ask, is the press responsible, is it fully responsible, the answer is, of course it's not, for many obvious reasons, not the least that we are fallible creatures. But the recourse to the so-called irresponsibility of the press has nothing to do with letting decisions be made at the Pentagon as to what we can cover, how we can arrive, and on what day of the operation. The recourse to press irresponsibility lies in the general processes of the society—you can criticize us, you can decide to buy another newspaper or to watch another network, you can write letters to us. You can attempt to bring your view of the press to bear in a forum like this. I don't object to that, except intellectually, in a forum like this, but I object to it strenuously when it happens in an invasion, where the government has the physical capacity to deny access to the press. That denial I regard as an instance of official irresponsibility, and that is what we ought to be discussing today.

MORTON HALPERIN: I had the opposite experience of one of the other panelists. When I was in the government, and read official government papers, I thought they were true. It was only when I got out of the government and started reading the press again that I discovered that often what one reads in official papers is not true.

I think all of us—not the press alone—suffered because it was not allowed to cover the Grenada invasion. I think the press had the right not to have the American government interfere with its being there, and the American government did interfere. There were several reporters who arrived on the island, who were held and prevented from filing stories for some period of time. There can be no doubt that that was lawless conduct.

The question of whether the press had a right to be on military transport is debatable. My view is that the government did not have a legal obligation to bring the press along on the invasion, but that it ought to have done so, because of the principle behind the First Amendment, namely, that we all benefit from a free exchange of information. I think the history of the American press indicates that reporters invited to go along on the invasion would have accepted whatever limitations the government placed on them. For example, they would have agreed not to file stories until the element of surprise was gone; they would have agreed to show the stories to the military to make sure that tactical information that would endanger lives was not revealed. What they would not and should not have done was to promise that they would not write later about their own views of what happened.

There are some serious policy issues relating to the events in Grenada that have not been and will not be fully discussed because the press was not there. For example, there is the question of whether American students were really in danger. We all saw the pictures of the students kissing the ground when they reached the United States. I am not prepared to say that that settles the question of whether they

were in danger, or whether the danger came before or after the invasion. I think there are reasons to believe that they were not in danger. We all would have been better off if the press had been there to assess that.

If the U.S. government had any objective other than to protect the lives of the students, there was a clear violation of the War Powers Resolution in the failure of the president to notify Congress that he was engaging in military action, and to consult as soon as possible. If the press had been there, it could have told us whether the military carrying out that invasion thought their orders were to get the students out and leave, or if they had other instructions.

Another set of issues that has not been aired has to do with the effectiveness and efficiency of American combat forces, the degree to which American military forces functioned in a coordinated manner. The fact that the American military were able to defeat the army of Grenada and the Cuban engineers there gives me very little comfort about the effectiveness of American military forces.

There are many other questions about that operation. For example, there was not, we learned much later, a single military commander on the island. There were Marine units and Army units, commanded separately. There have been persistent reports that they came close to fighting with each other, apparently having nobody else to fight with. If the press had been there, I suspect we would have had information as to the effective functioning of the American military.

I think the fundamental mistake made in Grenada was reflected in the statement of the secretary of defense that he had left the decision as to whether to invite the press along up to the military. That is wholly inappropriate in this society. It is not the responsibility of military officers to make that decision, because clearly the military would choose to keep everybody out. I think it is the obligation of a military officer to tell the secretary of defense and the president that from his point of view it would be better not to have the press there. But I think it is the responsibility of the secretary of defense and the president to tell the military that in our society these decisions are made by civilians. They are not made to maximize military efficiency but to balance military efficiency against other objectives of the society, including the people's right to know. It was the obligation of the secretary of defense in that circumstance to permit the press to be in Grenada as long as its members were willing to abide by specific ground rules. I think it is clear that the press would have done so.

CAMERON: Let me assure Mr. Rosenfeld that, after all, although I am a political person by virtue of whom I work for, I don't have the hostility toward the press that he ascribes to me. Indeed, for anyone in politics, the press is at the heart of what is to be done.

What I was trying to suggest was that there are two sides to the story. One can accept that or not. Some will choose to accept it; some

will not.

I recently read an article in *The Wall Street Journal* dealing with why all the political pundits erred in their advance reporting about the primary elections. David Broder, a man of some considerable stature in the profession, said, "I don't think it does a damn bit of harm if reporters look like horses asses the day after a primary election. It just proves we're fallible. After all, we aren't priests or something." I thought that was a useful thing for a press man of stature to say in the context of this discussion. People who work for the government aren't priests or something, either. They make mistakes too, and I would argue that in debating this issue one has to recognize that it is not black on one side and white on the other side. It is not always the press that is right and the government that is wrong, or the government that is right and the press that is wrong. It is a world of grays.

On the specifics of the Grenada situation, it must be observed that the operation, which involved the risk of loss of life, was put together in something less than seventy-two hours. One can expect our military officers to do a pretty good job—or we should demand that they do a pretty good job—but I am inclined to give them at least the benefit of the doubt, given that allowable time to plan and execute this operation, for not making the kind of fine arrangements we all would have liked to have seen to have the press along, to have them certify the kinds of things that Mr. Halperin suggested they certify. Feel assured that there were lives to be protected, and all of the rest of that, and you can only do so much.

ROSENFELD: The question of the relative fallibility of journalists and public officials is a question that concerns many of us, but it has nothing to do with the fundamental issue that we are here to discuss. The question is not about the relative fallibility of these two groups of self-important people; the question is the relative roles they play in our society according to our Constitution and our tradition. On this basis there is a very great difference. Officials have the power to remove the press physically, and thereby to prevent the press from playing its role, which is to observe, to comment on, and to argue about the use of power in our society. The government has not merely the power to decide who is on the boats, but it is the creator of the power in our society—information—which, when created by a government, is called "secrets." The proper role of the press lies in the natural tension, the interplay, the argument, the disclosure, the rebuttal, the confession, the determination to do it better the next time.

LIVINGSTONE: I find myself in substantial agreement with Mr. Halperin, which is an unusual position; we really have few disagreements. We both want a standard of reasonableness. I vociferously disagree with Mr. Rosenfeld, because I think that the press is at the center of this argument, and that it isn't just government responsibility that we are looking at today, but press responsibility. I

am reminded that A.J. Liebling once observed that freedom of the press is limited to those who own one. Most of the rest of us vie to carry our opinions to the mass of Americans through those who control the great newspapers, the magazines, the journals, and the television networks in this country. Because that puts the media in a unique position, we have to monitor their behavior constantly, and we can indeed put some restrictions on it. Those restrictions relate directly to Grenada. The problem is not reflective journalism once all the facts are in; the problem is instantaneous journalism, the rush to be the first to publish, even without all the facts.

We saw many journalists who rushed to judgment on the Grenada issue. I don't think that's healthy journalism.

I prefer print journalism because of its more reflective nature. In covering terrorist acts, there have been many journalistic abuses in the rush to report fast-breaking news. Such an incident is always better covered by newspapers when they take time to investigate it thoroughly.

I do not believe there is any need to let the public in on every aspect of every military operation. This has become an issue today in our world of instantaneous electronic communications. Even those who are not broadcasting live from the scene can have their stories from a combat locale on their editors' desks within a matter of minutes—or hours at the most. That puts a special responsibility on the press not to leap to conclusions, but rather to do thoughtful, incisive pieces.

It is wrong to say that we can assess press coverage after an event. During a military operation people's lives are at stake. I see no need for the press to report live on military operations. I agree with Mr. Halperin that it is not unreasonable that journalists be invited along. If their stories are embargoed for a reasonable period, journalists can still be the watchdogs of the American public in reporting a military operation. But there are new standards of reasonableness in our modern, high-paced, electronically configured world, and I think journalism must accommodate those.

I have no disagreement with almost everything that Mr. Halperin said today on the specifics of Grenada or in terms of military operations in general, but I do think that the press must be accountable. There are relevant and pressing arguments why the press need not be involved in every aspect of every military operation, instantaneous and live and in full living color.

Q: I served in World War II in submarines at a time in which we suffered the greatest operational losses of any force—twenty-five per cent. Had we had the kind of coverage Mr. Rosenfeld thinks is necessary to tell the story, our losses would have been seventy-five per cent. I think that the kind of operation that we had in Grenada should be extended in the future, that decisions about press coverage belong to the people responsible for carrying out military exercises in the

field.

Mr. Halperin, why do you (and I suspect you do) accept a double standard? For example, the equipment that the Israelis use is paid for largely by U.S. taxpayers. Have you ever objected to the fact that American reporters do not have access to Israeli war plans?

HALPERIN: Nobody is suggesting that American reporters have access to war plans. Nobody is suggesting that American reporters be allowed to report on the military operations of the American government, the Salvadoran government, or any other government. What we are talking about here is the desire of certain portions of the government to be free of criticism from an informed American public. There were very few instances in Vietnam, if any, where members of the press violated the confidence placed in them by the American military by reporting tactical operations in a way that placed lives in jeopardy. In Vietnam, objections to press coverage stemmed from the fear that if American people knew the truth about what was going on, they might not support the operation. The First Amendment requires that the government do nothing to keep the truth from the American people in situations where there is no jeopardy to tactical operations. What many objected to is that the American press stopped supporting the Vietnam war, editorialized against it, and showed pictures which reflected its animosity to the war. The American press has the right to do that. And if you try to tinker with that you are tinkering with the very heart of the First Amendment.

The issue is not reporters being informed about war plans; the issue is preventing reporting of tactical operations in ways that threaten the lives of servicemen. What we are talking about is whether the government has the right to censor information which does not threaten tactical military operations because it fears that if the American public sees what is happening, it will object to what is being done in its name. There is no right in the Constitution to attempt that kind of censorship.

Q: Reporters, just like nature, abhor a vacuum. If they do not get the information in one way, they will try to get it in another. You can keep them out of a combat zone, but you cannot put them out of business. Four news sources developed during the Grenada invasion: Radio Havana; ham radio operators; reporters in the pressrooms in Bridgetown; and congressional critics. The government thus created a vacuum situation in which the press used these sources.

LIVINGSTONE: I spent much of last night going over some of the press coverage of that period. You say the press abhors a vacuum. I think that's where we go astray. I am not sure that there is a need for the press to report during an operation. I would rather see reflective stories written by those who were on location after they have a little time to put it into perspective. I agree with Mr. Halperin that the military should have invited a pool of reporters to observe the

Grenada action and to air any valid criticisms. But I do not think it good policy to take advantage of this electronic world and report on events, such as military and counter-terrorist operations, without thought or reflection. I don't see what would be lost with a seventy-two hour breathing period, so that the media could have a better sense of perspective. Let the press try to get all the facts before they report. Although media people have the ability to report immediately, I am arguing for a longer period of investigation by the press before airing certain material.

Panel III

**Democracy Versus Secrecy:
Should the United States Have
an Official Secrets Act?**

**Suppressing Leaks:
Is Polygraph Testing Acceptable
in a Democracy?**

Panelists

Richard K. Willard
*Acting Assistant Attorney General
Civil Division, Department of Justice*

Daniel Rapoport
*Contributing Editor
National Journal and Washingtonian Magazine*

Ford Rowan
*Host, "International Edition"
Public Broadcasting Service*

Allen Weinstein
*President
The Center for the Study
of Democratic Institutions*

RICHARD K. WILLARD: Our questions here are: What should be done about leaks? Should we have an Official Secrets Act? Should we use polygraph testing? Obviously if leaks do not damage national security there is no reason to do anything about them. Some commentators have suggested that we should be unconcerned about leaks of national security information. In recent congressional testimony, George Reedy suggested there was no such thing as a secret, that even in time of war nothing should be kept from the American people. I don't know that there is anyone here who is that extreme on the issue, but it is important to know how serious the situation is before we know how strong a medicine we need to deal with it.

I do not think the media is responsible for leaks. I do not blame the press for leaks of classified information. I blame government employees who disclose information to the press. In the Pentagon Papers case the Supreme Court said it was acceptable for the government to take measures to make sure that government employees did not disclose secrets, but that once information got to the press, prior restraint was difficult.

It would be impossible for the government to police all publications in the United States. And even if a court were to order prior restraint, enforcing it would be difficult.

Members of the press are not normally in a position to know what is damaging to national security and what is not. Floyd Abrams said earlier that if government officials convince reporters that the release of certain information would damage national security, they will refrain from publishing. Perhaps they would, but you can't disclose all your secrets to the press and hope that they will not publish them. Some secrets are apparently innocuous, but if you know all the facts you realize what damage might result from publication.

I recognize that very few journalists traffic in top secret documents. Most are not that irresponsible; they report what they believe the public should know. I have concluded that the press is not to blame for leaks of classified information, and that both the solution and the blame lie with government employees who violate the law by disclosing classified information without proper authority.

This is damaging to national security. We have presented testimony to congressional committees documenting serious damage caused by leaks of classified information. We have made our case to members of Congress, many of whom originally were skeptical, and I am not aware of a single member of Congress who has heard this testimony who has said that leaks never damage national security. They do.

The two proposed solutions presented for discussion are an Official Secrets Act and the use of polygraph testing. I do not believe that we should have an Official Secrets Act. I think it is contrary to our constitutional tradition of accepting prior restraint on the press only where absolutely necessary.

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I would give a qualified yes to use of polygraph testing for government employees. If you read an article in the newspaper containing a serious leak of national security information, and if you weren't concerned about the First Amendment, you might call the journalist in front of a grand jury, compel him to disclose his sources, or plant an undercover agent in his office. However, all of these options would be inconsistent with our view of the First Amendment. As Floyd Abrams has said, it is important to the press that it be able to protect its sources.

The government's dilemma is that normal methods for resolving this problem are unavailable. You can question government employees who had access to the information, but that kind of investigation is rarely successful. Polygraph testing might be helpful in certain cases. That is why I have given a limited yes to the question. If we are going to take action in some of these leak cases, the polygraph is one of the few avenues available.

This is a long-standing problem that cannot be completely solved, no matter what we do. We have to do what we can to reduce its severity in an acceptable manner. That has been the purpose of the administration's program. We are open to suggestions from Congress about better ways to accomplish this goal, and we have an open mind on the question.

DANIEL RAPOPORT: The polygraph is an inappropriate tool for accomplishing what Mr. Willard wishes to accomplish. This morning, in preparation for this event, I spoke to the lawyer for Lennell Geter. Geter is the young black engineer who was imprisoned for a year for a robbery which the state of Texas now has decided he did not commit. In this case four polygraph tests were given. One was given by a state-sponsored polygraph examiner while Geter was in jail. He decided that Geter showed deception on questions about the robbery of which he was accused. After Geter was freed, his lawyer arranged for three other polygraph tests, given by two different examiners. According to his lawyer, he passed those. The point here is that there was a conflict between the conclusions of the examiners. In over fifteen years of observation, I have concluded that polygraphy is not the objective, reliable technique that its proponents claim it is. It seems to me that anybody who knows anything about polygraphy would decide that he is risking a lot—whether he is innocent or guilty—if he relies on a polygraph examination.

But I do not dismiss polygraphy technique as completely worthless or inaccurate. There are examiners who are expert at administering these tests, and the odds are against fooling them. But there is, among the very best examiners, a one to five per cent inaccuracy factor. There are so many variables in dealing with anything as complex as the human mind, that it is absurd to assume that anyone with a limited background in psychology and physiology can conclude with complete

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accuracy whether someone is lying. What the machine shows, and very accurately, is that there has been some physiological response correlated to a given question at a given time.

There is too much at stake for anyone to submit voluntarily to a polygraph test. A government employee is not voluntarily submitting when he is asked to take a test and could lose his job if he refuses, or suffer "adverse consequences"—meaning a career setback. It seems to me patently unfair to ask someone who has genuine doubts about the validity of the polygraph to stake his career on such a technique. This is testing that is inappropriate, no matter how serious leaks may be. There will probably be more false positives than false negatives, and qualified people may be excluded from government service. Although you may screen out potential security risks, you may also eliminate many who are not security risks.

FORD ROWAN: I think there are some things that the government properly should keep secret in the public interest, yet at the same time I believe that a democracy that knows most works best. I have been a Pentagon correspondent, I have covered military operations (including the first Israeli incursion into Lebanon), the Watergate trials, the White House during the Nixon years, and investigations of alleged CIA and FBI abuses. I am aware of the shortcomings in government, and also of the shortcomings of the press—the sensationalism, the subjectivity, and the shallowness which reporters, and I include myself, sometimes exhibit. Good reporters try to rise above that and many do, but it is a problem that plagues journalism. You don't have enough time to dig up all the facts, sometimes you report things without knowing the entire picture, and sometimes published information has a result that you never intended.

I have been the recipient of lots of leaks. I chose not to broadcast many of them. Some were not newsworthy, or what newsworthiness they had was eclipsed by the damage that could be caused by their publication. But most of the information that I have received I worked into news stories. I didn't suppress anything that I thought was truly newsworthy.

Journalism of its nature is selective. It selects what it thinks is important or interesting. I have always balanced what was important and what could be damaging, and I think other reporters do the same.

The First Amendment doesn't mandate a responsible press. It's nice if the press corps acts responsibly, but the question is who decides how it should act, and under our system it is not the government that should decide.

What should we do about the problem of classified material? Much material should be classified, but some should not. Some classification is an effort to protect what the people in the CIA once referred to as the family jewels—the embarrassing or illegal things that an agency might have become involved in.

Why do people leak information? First, they could be traitors, but it is more likely that a traitor would give secrets to the other side, not to journalists. I don't think that that's one of the main motives for leaks. Vanity is another motive—to ingratiate yourself with the press, or to have a feeling of power. It could be spite—to embarrass your superior, a competitor, or another agency in the bureaucratic wars. There is ambition, to enhance one's own career, or one's own agency. And patriotism—that is a motive that I have seen more often than any other. People want to right a perceived wrong, or correct a mistake in strategy—the whistle-blower idea. The patriotism motive can be a mistaken one, for the person may be wrong about what is really in the best interest of his country.

Leaks can be a corrective to mistaken policies. Information enhances the public's ability to participate in policy-making, and it is pro-democratic, but I think some leaks have harmed the nation.

I don't think we need an Official Secrets Act—we are partly there already. We have the Intelligence Identities Protection Act which prohibits press disclosure of the identities of CIA operatives. I don't agree with those people who put out booklets that name names of CIA agents for the sake of naming names, but I can see instances where this increases the credibility of a story, and the impact of information.

The initiatives of this administration have been harmful to the concept of popular democracy. Pushing for lifetime prepublication review rights over thousands of government employees is a mistaken policy. Those who know the most about a government policy could only criticize their successors with the approval of those successors.

I regret that classification has been tightened. That has limited disclosure under the Freedom of Information Act by increasing the amount of classified material exempt from disclosure.

I think the administration has erred in barring the entry of foreign citizens who bear messages that the administration feels the American public ought not to hear. Also, going through the motions of labeling such films as the Canadian film on acid rain as political propaganda was a mistake, even though it didn't inhibit the public's ability to see that film.

I have a similar attitude about polygraph testing as President Nixon. He once said, "I don't know if it works, but I know it scares the hell out of people." Government by intimidation means you can't trust your employees. Although this may sound awfully naive to some from the intelligence agencies and the military, trust is something that is important in our society. We ought to think in terms of a commonality of interests.

We now have policies that, taken together, amount to a quasi-Official Secrets Act. I am not sure that that's what we really need.

The press in our society, for better or for worse, has become the opposition. Some would call it the watchdog, but it really is political op-

position. It's not pro-liberal or pro-conservative: it's just anti-whoever-is-in. The question is, is the press a loyal opposition? I sometimes think that this administration doubts the loyalty of the press.

ALLEN WEINSTEIN: There are occasions such as today when I speak last on a panel and find myself in the uncomfortable position of not disagreeing with a word that's been said thus far. Let me suggest some dimensions of the problem, however, that we may not yet have considered.

First, I am proud to have been the plaintiff in a case fought through the years by my attorneys in the American Civil Liberties Union, which won the first Freedom of Information Act lawsuit on the question of obtaining historical records from a major intelligence agency, in this case the Federal Bureau of Investigation. Those at the ACLU who were involved in that case set a precedent which has been of great value to scholars and journalists.

Second, it is difficult to judge whether the questions that have been discussed here primarily concern anxiety over potential enemy intelligence agents or anxiety over the actions of the American press. The question of whether the United States should have an Official Secrets Act because of the problems of confronting intelligence adversaries is very different from the question of whether an Official Secrets Act has any place in a free society if its primary purpose is to deal with alleged sins of omission or commission by the U.S. media.

Third, who leaks and why? I think that Ford Rowan's discussion was comprehensive, with one critical exception. That is the degree to which what we call "leaks" have become a normal part of the policy process. Perhaps they have always been so, since the beginning of the republic. In short, those who leak information often do so in order to have their views heard on specific public issues, not all of which have to do with national security. One administration's "leaker" is an opposition's "loyal American underground." That latter phrase was used by Senator Joseph McCarthy in the early 1950s to describe State Department officials who leaked memoranda to his staff alleging that there were communists at State and elsewhere in the government who had not been detected by loyalty-security tests. McCarthy was promptly denounced by President Harry Truman, Dean Acheson, and the liberal Democratic leaders of Congress as an unregenerate proponent of disruptive leaking.

Depending on the administration, we have had liberals denouncing conservatives and conservatives denouncing liberals for this practice. Probably so it will always be. I caution you, therefore, against thinking that anxieties about leaking have any particular ideological or political tilt in this country. They do not, and the politics of leaking depends on who is in power and who is being leaked at.

Fourth, how, in any period, do we best assure maximum concern on

the part of all Americans for the legitimate national security interests of this country? I start from the premise that there is not a person in this room, whatever his politics, who is not deeply concerned that this country be secure from its adversaries at home and abroad. Then the question becomes: when in the twentieth century have we seen periods of relative consensus on the ground rules? Let me list a few of the better periods.

The Second World War saw consensus, as did the early years of the cold war, both in the Truman and Eisenhower periods. We found it even in the aftermath of the revelations concerning intelligence agencies of the late 1960s and early 1970s, and in reform efforts during the Ford and the Carter administrations that stressed the new role of the Senate and House Intelligence Committees. In all these eras, there was a certain amount of consensus on what revelations would injure the national interest.

In our periods of deepest controversy, however, for example during the First World War, when there was no consensus within the United States as to what constituted an act designed to assist our enemies, the government was relentless in pursuing real and imagined enemies. The Vietnamese war era in the Johnson and Nixon administrations hardly constituted a quiescent period in regard to the issues that we are discussing today. I think it is fair to say that whatever views we have on the specific proposals that have been made, within the Reagan administration we have seen a resurgence of debates that a number of us witnessed in earlier historical incarnations. Why?

Fifth, I oppose an Official Secrets Act, not only because of its constitutional and legal inappropriateness to the American system but, also, because of its guaranteed ineffectiveness.

~~The problems inherent in polygraph examinations and the impossibility of enforcing non-disclosure pacts (which the administration has now backed away from, at least for this session of Congress) indicate these—along with Official Secrets Acts—may not constitute the most appropriate remedies for a very real problem, in part because they constitute horse-and-buggy approaches to space-age security dilemmas. We are in a period in which, if somebody had his little diamond stickpin with a listening apparatus, he could drop it into a glass of water and somebody hundreds of feet away could hear what was being said. *The technology of intrusion* has clearly outrun the ability of individuals in a democratic society to determine sensible, constitutional, legal, appropriate ways of dealing with and policing the abuses involved.~~

My underlying argument doesn't differ fundamentally from Mr. Rowan's in one regard. I do not consider myself particularly naive on issues of intelligence. In any given era, there are those trying to ferret out the few genuine secrets of an open society. If you look closely at those periods in which there was a relative degree of consensus on the

ground rules in this area, however, you will discover that they were also periods in which the purposes and the definitions of national interest were generally agreed upon by the society's leadership. They were periods in which you began with a measure of trust and did not necessarily have to provoke it by excessive legislative means.

Sixth, one problem of dealing with agreements never to disclose anything you learned in government is that you have to begin with the memoirists. It is difficult to know what to do when any government official takes away materials that he or she does not necessarily have a right to take, and the next time you see the documents, they are tacked into a footnote on page 383 of a best-selling memoir. Such classified goodies are salable commodities on Madison Avenue as well as in the Kremlin. Given the commercial realities for a Kissinger, a Vance, a Carter, or a Haig, it seems excessive to me to take the GS-15 who has labored mightily on behalf of his country for thirty years, and say: "You are going to sign a nondisclosure agreement, though those who have used restricted materials can continue to do so without complaint—so long as they hold sufficiently high public office."

Seventh, as to the role of informants, my sense is that in a number of periods in American history, when we have been deeply concerned over problems of secrecy, accident often plays a remarkable role in events. Often it's the person who tires of an ideology—Nazism, Fascism, Communism, Khomeinism, or whatever—who says, "I've had enough. This is a democracy. It's a marvelous country. I don't want to subvert it any longer. I am going to go to the authorities and tell them what I know." We Americans have been the beneficiaries of this conversion process time and again in this century and probably will continue to be because of the open quality of our society, because of what is considered by people in a closed society an exhilarating amount of personal freedom.

Eighth, how do we restrain abuses in the classification system, which exist and will continue to exist? There have been serious efforts made by successive administrations of both parties to do that. It is necessary to move toward an even more rational classification system, one that will assist the efforts of those who have to use the documents, and who often—whether they are in the military or the intelligence or the law enforcement community—are as hampered by an excessively rigid classification system as any of the rest of us.

Finally, as for media coverage, I see no sensible way of coping with the dilemma through legislative means. Journalistic self-restraint will not be encouraged in the long run by the threat of jail. There is nothing that can advance a person's career in the media more quickly than being threatened with imprisonment over a free press issue. Why should he or she seek to avoid the kind of attention and support that would come from his or her colleagues in such a situation?

WILLARD: Obviously we don't have enough time to debate each par-

ticular administration policy which has been criticized here. A lot of these criticisms are not new, and it is unfair to criticize the Reagan administration for enforcing, for example, the Foreign Agents Registration Act—which was passed in 1938—with regard to registration of movies. This has been enforced in this administration no differently than in any other. The judge in California who had the case concerning the application of the Act to the Canadian film on acid rain had no criticism for the Reagan administration; he said that Congress had passed an unconstitutional law and we had simply tried to enforce it.

Similarly, on denying visas to foreign visitors, this administration is applying the McCarran-Walter Act of 1952. Prior administrations, Republican and Democratic, have used that Act to exclude controversial foreign visitors. It is unfair to claim that this is some pernicious new doctrine of the Reagan administration.

It is true the Reagan administration has adopted a new executive order on classification in order to tighten up some of the excesses of the prior order. Yet statistics compiled by the Office of Information Security Oversight show that, in general, there has not been an increase in the amount of classified material under the Reagan administration, and, in certain important categories, there actually has been a decrease.

I do not claim that the policies of this administration are perfect, but there has been a great deal of overstatement by critics—particularly people in the press—on these issues. I think our discussion today has been much more moderate in tone and substance than much of what I have seen in the editorial pages of newspapers across the country for the last year. I congratulate my fellow panelists. If they had been writing all the articles and editorials over the last year, we would have had much more reasonable coverage of these issues.

Q: Mr. Willard, will there be another proposal for a prepublication review agreement which would apply to government officials, on a different or a narrower basis?

WILLARD: We want to work with the members of Congress to try to reach a consensus on what should be done. I think there is a recognition on the part of our critics that this is not an illegitimate security device, and that with a modified prepublication agreement, we will be able to reach a consensus.

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