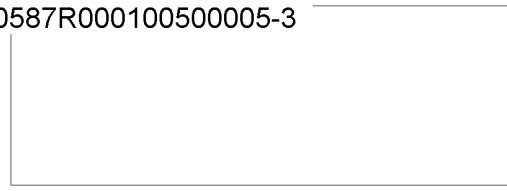


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FOR PUBLIC AFFAIRS STAFF

PROGRAM CBS Nightwatch STATION WDVM-TV
CBS Network

DATE May 27, 1986 3:00 A.M. CITY Washington, D.C.

SUBJECT Dealing with Press Leaks of Classified Information

FRED GRAHAM: Journalists are always looking for a good story, and no story is as good as a secret. But when that secret belongs to the government, national security may be involved. And deciding who can say what about a national security issue can be a very tricky business. It is so tricky, in fact, that one day someone may land in jail over it.

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CBS reporter Hampton Pearson takes a look at the latest controversy.

HAMPTON PEARSON: The rivalry between the press and the intelligence community heated up last week. NBC News was the target of a stinging attack by the Director of the CIA, William Casey. He charged that one of the network's correspondents had broken the law. The report on the Today Show told of a secret sold to the Soviets by Ronald Pelton, who is on trial for espionage. The NBC report allegedly revealed classified information about U.S. eavesdropping operations. Casey asked the Justice Department to investigate whether the story had violated a 1950 law.

The Washington Post had been holding back on a similar story. They were faced with a Casey threat to prosecute, as well as a telephone call from President Reagan urging them not to print. But after NBC's report, the Post went ahead with a front-page story of its own, minus a few key details.

No news organization has ever been prosecuted under the 36-year-old law. Casey is threatening to crack down, though, on any future offender.

Critics charge the Administration ought to clean up its

own act before going after the news media. They say the real problem is spying, not the stories in the press.

Also, the President himself has been accused of revealing secrets about U.S. eavesdropping capabilities.

PRESIDENT REAGAN: On March 25th, more than a week before the attack, orders were sent from Tripoli to the Libyan People's Bureau in East Berlin to conduct a terrorist attack against Americans, to cause maximum and indiscriminate casualties.

GRAHAM: In that speech, the President himself appeared to give away American eavesdropping capabilities.

The news media have also published information about U.S. interception of Libyan communications. The CIA charged these stories broke the law.

Who's right, the press or the government? Here's our night match resolution: Quote. In its pursuit of stories, the press has compromised national security interests and covert actions. It is high time the government cracked down hard. End of quote.

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Arguing in favor of the resolution, John Greaney. He's a former associate general counsel of the CIA and now head of the Association of Retired Intelligence Officers. Arguing against that resolution, Howard Simons. He's a former managing editor of the Washington Post and now heads the Neiman Fellowship program at Harvard University.

Mr. Greaney, your opening statement, please.

JOHN GREANEY: Good evening.

Howard, nice to meet you.

Fred, it's nice to be back.

I would like to say that national security is not an ethereal term. It's defined in statutes. The Supreme Court has reviewed it and discussed it and explained its ramifications on many cases. We can get into the cases later.

Specifically, in support of the resolution tonight, I would like to refer back to a story that appeared in Mr. Simons' former employer's paper on May 12th of 1985. This was a front-page story in which Bob Woodward was the principal author, and identified a March 8th car-bombing in Beirut and had been carried out by counterterrorist unit trained and supported by the CIA. That was on May 12th.

As a sideline, I'd like to comment that Tass carried that same story on 13 May, Pravda 15 May, and Izvestia on 16 May. So there was a complete follow-up from the Soviet press.

We then step to the 15th of June, 1985, during the hijacking of the TWA aircraft, when the hostages murdered a U.S. Navy Petty Officer Robert Stetham and just ceremoniously threw his body off the tail of the plane. And at the time, the tower was reported as saying, "Why did you do that?" And they said, "Do not forget the massacre at Belabed (?)."

That is the way the press treated an American sailor.

GRAHAM: Mr. Simons.

HOWARD SIMONS: I'm not -- I'm more interested in the general climate today, of what Mr. Casey is trying to do, which in my recollection is bashing the press in a way that hasn't happened since the Nixon Administration.

My view of the press is very simple. It's more interested in keeping government honest than in honest government, and that the Founding Fathers were very smart. They believed in checks and balances, and then added another check. And that other check, in my view, was the First Amendment. And if you crack down hard on the press, you're going to crack down hard on democracy. And what you end up with is secret government. And I don't like secret government.

GRAHAM: Mr. Greaney, in your response, there's been a general answer there to your very specific charges. What's your general answer?

GREANEY: Well, I would say that I think it's wrong to criticize Mr. Casey. Mr. Casey is carrying out a statutory mandate that was given to him by the Congress, which was elected by the people. This mandate was established in 1947 in the National Security Act. The act that he identified as having been violated was the amendment to the Espionage Act of 1950, 789 of Title 18. Those are specific statutes that have been on the books, notwithstanding the First Amendment.

And I would offer this argument, that I don't think the First Amendment is a Holy Grail that is the all-ensuing answer to everything that people want to make it. I think there are limits on the First Amendment.

SIMONS: Oh, I definitely think there are limits on the First Amendment. But having said that, why has not this obscure law, which has been on the books since 1950, which Mr. Casey got out of some antiquated trunk and dusted off, never been used?

GREANEY: That is not so. It's not an antiquated law.

SIMONS: Why has it not been used against the press by any of the Administrations from 1950 to 1986?

GREANEY: It has been used in criminal cases. It has been used in the Boyce-Lee trial. Christopher Boyce and Dalton Lee were convicted of violations of 798.

SIMONS: But they weren't newspaper people.

GREANEY: That's not written specifically for newspaper people.

GRAHAM: Mr. Greaney, let's let Mr. Simons finish his rebuttal, and then we'll take a break, and then you can have at him.

Mr. Simons.

SIMONS: The other thing I don't understand is your implication that -- was it the press's fault and national security was broken when the young man was killed in the TWA hijacking? Was it Bob Woodward's fault that a rogue group, trained presumably with some help with the CIA, caused a lot of damage in Lebanon?

GREANEY: I would say yes.

SIMONS: Well, that's very interesting. But I don't think that's what the President of the United States said.

GRAHAM: And with that, we're going to take a break.

* * *

SIMONS: It's much more comfortable for them if they can tell the press what to print and what not to print, and if the press is so afraid of them that they silence themselves, censor themselves.

GRAHAM: Howard Simons, that's the classic First Amendment response to the kind of arguments that John Greaney has been making. And my question to you is this: We all understand that in recent years more and more of the information we have obtained about world affairs come through highly sensitive surveillance methods, the value of which is incalculable to our country. Now, when the newsman makes a decision to make the substance of that public, because the substance he knows is not damaging to national security, perhaps the method by which it was collected will be compromised in a way that will damage the security in ways he cannot know.

Why should you? Who elected you, a member of the media, to make that decision, when Congress has passed a law saying that it should not be made by you?

SIMONS: Well, to begin with, I was unaware of the law until this recent case.

But having said -- I wish I listened to my mother and become a lawyer. I could then deal with Mr. Greaney better. But having said that, it seems to me that it's the government's job to keep the secret. It's the press's job to find out the secret. That's been my -- that's the blood the surges through my veins, and has for 30 years. Once we discover the secret, then it's up to us to determine whether you publish it or not.

And everyone asks the same question that you asked. And that is, who died and left you boss? as my mother used to say when I got uppity. And it seems to me that in a democracy, as viewed by the courts for these 200 years, the press has had that role. And it's been a very successful role.

I must say, having been at the Post for 23 years, covering space and covering nuclear energy and covering disarmament, and then as an editor, many times we were asked by government officials not to publish something and many times we didn't publish them. But sometimes we did. Because in this town you cannot do business as a newsperson without bumping into a secret. Twenty million federal documents, twenty million, are classified in this country every year.

GRAHAM: Mr. Greaney?

GREANEY: Well, I would take exception to that application to this case, Howard, because I think the statute that we're talking about, that Mr. Casey referred to, of 798, specifically limits comment on communications intelligence and is a very narrow statute. And certainly does -- I don't disagree that there's that many documents classified. But we're talking about a very specific narrow issue that the legislature...

SIMONS: I'm not talking about that specific narrow issue.

I'll tell you two things I find very -- core irony in what Mr. Casey is doing, and it is as follows: If I understand what I read in the press, because that's my information these days, he suggests that by publishing information people have on what the alleged spy, Pelton, gave to the Soviet Union, you may confirm to the Soviets information that they are not certain they have as accurate.

GREANEY: But he didn't limit it that way.

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SIMONS: Now he goes and confirms it himself by targeting an NBC reporter and by targeting five newspapers.

If I were the Soviet intelligence apparatus, I'd be...

GREANEY: There's different stories, Howard.

SIMONS: I'd be combing the Washington Times, the Washington Post, Newsweek, Time to see what it is that was published that's so vital that he doesn't want the Russians to know about it.

GREANEY: Well, you've confused apples and oranges because you're in different stories. The Pelton case was a single story that did relate to the story the Post was going to publish. Those two and the Polk story on NBC are the same information that's being dealt with.

But I think you have to go back and find the other statute that Casey is faced with, and one that you're very familiar with, and that is obstruction of justice. If Casey doesn't conform to his statutory mandate to protect sources and methods from unauthorized disclosure, somebody on Capitol Hill, or the Washington Post, is going to accuse him of obstructing justice.

SIMONS: Well, he would be the first CIA Director in my living memory to be so accused by anybody.

GREANEY: But remember Mr. Helms's case. Don't forget that case.

SIMONS: But there hasn't been a CIA Director that hasn't come to the newspapers quietly, pulled them aside, or "Come out and visit us at Langley, and let's talk about it." And that's the way every one that I have known has dealt with the press.

You know, there's a little bit in this that strikes me as Mr. Casey calling attention away from the fact that every true secret that has gone to the Soviets in the last X years has walked out the front door by ex-CIA employees, ex-NSA employees, ex-government employees, ex-Pentagon employees; not published in newspapers.

GREANEY: Well, I don't see how you come up with that answer. The ones that have been caught, the spies that have been caught, that have been prosecuted have been government employees. But we don't know how many stories the Soviets gather, just as this was reprinted, the story that I alleged and affirmed to in the opening statement, where you end up with Tass, Pravda and Izvestia redoing and restructuring the whole story.

SIMONS: You know, there's a very amusing story about the breaking of the Japanese codes during World War II, in that the Chicago Tribune actually said the victory at Midway was possible because we broke the Japanese codes. Now, if you go and read the history of that, the Japanese didn't know about that story in the Chicago Tribune. It's kind of logical. They'd have to really have somebody clip it in Chicago and send it to Tokyo, or send it to Berlin to send to Tokyo.

It was the lawsuit that the Justice Department brought that tipped off the Japanese, which then led to them changing the codes.

And what I'm suggesting is that Bill Casey is doing the same thing here when he goes after Polk.

GREANEY: Well, I disagree with that because I still say that Bill Casey is not being selective. He's not going after Polk alone. Casey is willing to prosecute...

SIMONS: He's intimidating the press, and that's what his game is.

GREANEY: I don't think the press can be intimidated.

SIMONS: Oh? Well, we'll find out.

GRAHAM: Mr. Greaney, why suddenly, then, has he started to do this? After all these years of all these secrets spilling out, why now?

GREANEY: He has just become -- I really think that this incident, when you start talking about individuals' lives being lost, and these things lay down and they get back to the question -- and General Odom, the Director of NSA, said one night, "The real problem is that, having lost the intercept capabilities because of the publicity attached to it, many people's lives will be endangered." And this is what the crisis has come to, that the leaking of information has resulted in the possibility of loss of American lives.

SIMONS: How about all those people who walk out the front door with secrets?

GREANEY: Well, I ask you to report those people if you know about them.

SIMONS: I see.

GREANEY: I don't know who they are. Casey doesn't know who they are.

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GRAHAM: Can you cite a case in which an agent has been lost because of a press story?

GREANEY: An agent.

GRAHAM: Yeah. One of our agents.

GREANEY: One of our agents. I can cite a similar case. He was not an agent but he was identified the widow of a former...

GRAHAM: I don't want to -- I'm sorry, I don't want to. But you can't cite a case [unintelligible].

But the point -- we saw the President do it, and it was a decision on his part. Mr. Simons has pointed out that they've gone out the front door through all these CIA and NSA employees. It seems to me that the confirmation that you allege by the media is so minor compared to that that you have to wonder what...

GREANEY: Well, I think you have to consider that, first of all, espionage cases are very difficult to prove in court. The burden, a heavy burden, is on the government to prove that case.

I welcome the fact that if he can identify people who are giving away secrets, I think Mr. Meese would be welcoming him with open arms, to go ahead and prosecute those people.

SIMONS: Mr. Greaney, you've been in this town as long as I have.

GREANEY: Yes, sir.

SIMONS: It seems to me that no secrecy labels, in my experience, in my experience, which is not as extensive as yours in intelligence operations, has been that the secrecy labels more often than not are put on there not to keep a true secret, but for lots of other reasons.

GRAHAM: Gentlemen, we're going to have to take a break. You're going to have a shot at each other in just a moment.

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GRAHAM: Mr. Simons, complete your question that we interrupted.

SIMONS: Secrecy labels are put on as often, in my experience, to stifle criticism, to cover up cost overruns, to cover up abuse, to cover up power, to do lots of things. And very few of them are really true secrets.

GREANEY: Well, that's a different problem, though Howard. That's a classification problem. And I'm not going to argue that every document that's classified is properly classified. That would be foolish to do that. I would still like to...

SIMONS: Who makes that determination? Can the press make that determination? If you're not willing to say that every one is properly classified, who makes the determination?

GREANEY: I think the value has to be made when the substance is looked at in the story itself.

SIMONS: That's what the press does.

GREANEY: But I don't think they do it frequently enough.

SIMONS: What they often do is go back into the literature and say, "Well, this has been published. The Russians know it and it's all been published."

GREANEY: But they don't know what the Russians know. That's the thing. The only way the Post would know what the Russians...

SIMONS: Well, I'm not sure the CIA knows what the Russians know, either.

GREANEY: Well, the only way the Russians...

SIMONS: I don't even know what CIA knows, because they never say anything.

GREANEY: The only way the Post would know what the Russians know is if the Post gave it to them. And you want to admit that?

SIMONS: Oh, God. That's a disjunctive something or other.

[Laughter]

GRAHAM: Howard Simons, let me ask you this. We didn't get an -- I didn't hear an answer to my initial question.

SIMONS: I agree with Nat Hentoff.

GRAHAM: You say that the press's job is to get the news and print it, and it's their fault for leaking it. But if you learn or if you suspect that, beyond the substance of that, a

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secret method of surveillance that cost billions will be compromised...

SIMONS: I do not know of an editor who will willingly or knowingly compromise that. I still have secrets...

GRAHAM: If he knows it. How can he know it, though?

SIMONS: Well, in checking out the story, you're told. I mean I've been called over to Langley and I've met with CIA Directors and I've been asked not to publish some things. And there are some things we never published.

GREANEY: And to his credit, I would say that the story that the Post printed this week was a responsible answer to deleting the...

SIMONS: Well, that's after they had their head bashed in.

GREANEY: Well, if it takes that, do it. But they responded.

SIMONS: I disagree.

GRAHAM: Mr. Greaney, the report in NBC by James Polk, he didn't check it out. Russia knew all about those secrets that he disclosed Pelton told the Russians. How could that possibly hurt national security?

GREANEY: Well, I think you go back to the interview you had with Mr. Colby the other night. And the problem is that what that has done is embarrass the Soviets to the point that they have to take action, having brought it back up to the public's interest...

GRAHAM: And we're going to lock up an American reporter because we've embarrassed the Russians.

GREANEY: Now wait a minute. You're talking about way do own the road. You've got to go through a process. First of all...

GRAHAM: You mean you've got to try him first?

GREANEY: You have to go to the Attorney General and get his decision to prosecute, to indict. And then you go to trial and then you have the jury system. There are many, many checks and balances. Just the fact that Mr. Casey would like to see a prosecution doesn't support that prosecution.

SIMONS: And don't you think he wants that prosecution

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to intimidate the press, to scare 'em?

GREANEY: No. I think Mr. Casey's judgment was that that story violated the specific language in 798. And therefore his responsibility was report it to the Attorney General.

SIMONS: And is he going to be terribly disappointed when the Attorney General says, "I really don't want to touch this with a 10,000-foot pole, because it's not the democratic way"?

GREANEY: Well, that's the Attorney General's responsibility, because he too has an oath to support the Constitution and the laws of the United States. Now, I can't speak for the Attorney General. But he has an obligation to support the Constitution.

SIMONS: So what you're saying, there's an inexorable business that's going on here, that Step B has to follow Step A, and Step C has to follow Step B.

GREANEY: No. I'm saying that there is a process of legal...

SIMONS: Why has no one ever availed themselves of this in the past? I can't understand why for 36 years...

GREANEY: I don't think the evidence has been so prominent to show a violation of the common statute. Now, this is because of the narrowness of the items involved and what it's related to.

SIMONS: Do you think the statute is constitutional?

GREANEY: Yes, because I don't consider the First Amendment an absolute prohibition.

SIMONS: It says that Congress shall pass no law abridging freedom of the press.

GREANEY: A free press.

SIMONS: Yeah.

GREANEY: A free press.

SIMONS: Okay.

GREANEY: A free press doesn't mean...

GRAHAM: It says freedom of the press. It doesn't say a

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free press. Freedom of the press or of speech.

You're going to have to go fast to find your Constitution. I'm sorry.

We'll be back with more in a moment.

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GRAHAM: We're talking about the CIA's threat to prosecute journalists for revealing classified information about U.S. intelligence gathering. Here's our night match resolution once again. Quote. Resolved: In its pursuit of stories, the press has compromised national security interests and covert actions. It is high time the government crack down hard. End of quote.

Our debaters: former associate general counsel of the CIA, John Greaney; and former managing editor of the Washington Post, Howard Simons.

And our first questioner is Reed Irvine, who is the Chairman of Accuracy in Media.

REED IRVINE: I direct this to Mr. Greaney.

Mr. Simons has given us a view of the press as being people who are motivated only by the national interest in going after these secrets. Lyle Denniston of the Baltimore Sun, an unusually candid journalist, has said that he would steal documents, secret documents off the desk of the Secretary of Defense, he would break and enter to get such documents, because his only job is to get information and sell it for a profit.

Mr. Greaney, do you think that journalists are always motivated by the national interest in going after national secrets?

GREANEY: I don't know as many journalists as you do, Mr. Irvine, but I would say that a journalist that practiced those actions that you described is clearly one that Mr. Casey had in mind when they should be referred to prosecution under 798. Because if they're going after that kind of material, that kind of action warrants prosecution in the swiftest order and it should be done.

Now, I don't think you can generalize that all journalists are of that ilk. I think there are responsible journalists.

IRVINE: But is there a difference between a journalist

of that ilk and Mr. Pelton and others who sell for a profit national secrets?

GREANEY: I think it depends on what that journalist does with the material he steals. He's sort of like a broker at that point. If he steals it and then comes back and tells you he got it and wants to blackmail you, then you go after him.

GRAHAM: Howard Simons, I bet you have something to say about that.

SIMONS: Well, no. Reed Irvine's an old friend. He runs an organization called Accuracy in Media, whose acronym is AIM, but they don't always shoot straight.

JANE KIRTLEY: I'm Jane Kirtley and I'm the Executive Director of the Reporters Committee for Freedom of the Press.

I do have a question for you, Mr. Greaney, and it's this: We've been talking a lot this evening about the government owning your secrets. And I'd like to ask you what your justification is for saying that the government really owns anything. I thought that the government represented the people. And I'm curious to know where that designation comes from.

GREANEY: Well, I think it comes -- if I could answer that portion before you go on. I might forget the question.

The idea is that the government is a system of checks and balances. You have three parts to the government. You have the legislative branch, which appropriates the money and sets up the authority for the government to do business. It is through that business and through the statutes that the Congress had passed, which has been elected by the people, that set up these restrictions.

KIRTLEY: If I may, speaking of checks and balances. It would seem to me that I would be a lot more comfortable if a court of law were to tell me that the government was correct in classifying information than saying it was stealing to take it away and disseminate it to the people and to have a handful of appointed officials making that determination.

GREANEY: Well, I think the courts have done that in the Symms (?) case. If you go back to the Freedom of Information Act, which has a questionable constitutionality to it that has not yet been challenged; but if you go back to the Supreme Court, where they determined that the protection of sources and methods was a valid exemption under the Freedom of Information Act, then I think they have -- the Supreme Court has passed on that question.

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KIRTLEY: The Supreme Court has also said, however, that a prior restraint is justified only under the most extraordinary circumstances.

GREANEY: We're not talking prior restraint.

KIRTLEY: Oh, but we are.

GREANEY: You're mixing apples and oranges.

KIRTLEY: No. We've been talking about a prior restraint all evening, because the Washington Post has not published information that they have, sir.

GREANEY: Not by a court order, though. It's not a court order. It's not something that was brought about...

KIRTLEY: Then it's been even more effective, hasn't it, because you haven't even had to submit your proof to public scrutiny that there is a damage to national security.

GREANEY: I think you're dealing with responsible people when you're talking to the editor of the Post.

SIMONS: No. You're helping create an Official Secrets Act by fiat, is what you're doing. And that's what she was suggesting.

MAN: A question for Mr. Simons. My name is Dolph [unintelligible]. I'm a consultant on international security affairs.

Isn't the change in the entire tenor of world events which operates out of the change of the technology and the rise of organizations like the KGB, and now terrorism, isn't that the thing that causes all organisms within government and in the body politics to change? And yet the media still remains kind of frozen.

Now, take a case of national security endangered by not publishing something. NBC, Henry Champ reporting from the interview with Abu Abbas, refused to tell people where Abu Abbas was at that time. Yet Abu Abbas, like Son of Sam, is going to go out and kill again.

Now, doesn't journalism have to look at some standards and say, "Yes, for other days, perhaps we had a kind of working modus operandi. But now maybe we have to change some things for national security?"

SIMONS: I think it's unfair to suggest that Henry Champ would have gotten the interview had he not promised Mr. Abbas

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that he wouldn't reveal where he was. Now, if you're asking him to become a participant in the law enforcement business, that's not his job.

MAN: But what I'm saying, sir, is if Henry Champ thought the interview was more important than the security element involved, then Henry Champ is saying exactly what Reed Irvine mentioned, that they go out for the money, they want the story, and they're detached, like they live in UFOs and won't be affected by the results of denying...

SIMONS: Isn't it also possible that Abbas is a newsworthy figure who has a message and that that message has an audience, whether you agree with it or you don't?

MAN: He killed Leon Klinghoffer and he masterminded the Achille Lauro hijacking. He's not a personality you'd put on the Phil Donahue Show or the Tonight Show. He is a killer and a criminal. And the press has not recognized this. And I think there is one of those glowing deficiencies of the press's ability to mature.

GRAHAM: Thank you very much.

ALAN LUDCKE: My name is Alan Ludcke (?), University of Maryland.

Mr. Greaney, talking about revealing secrets, compromising covert operations, 24-25 years ago the press didn't reveal a covert operation -- that is, the Bay of Pigs. And President Kennedy said afterwards he wished that the secret had come out and he'd been saved from one of the worst mistakes of his Administration.

GREANEY: But I would say...

GRAHAM: Mr. Greaney, you have one minute.

GEANEY: ...the mistake was the President withdrew two-thirds of the air support for that operation. I don't think it was a bad operation.

SIMONS: Let me take Mr. Greaney's side in this, 'cause he didn't give you the right answer.

[Laughter]

SIMONS: President Kennedy would have never said that had it been successful.

GREANEY: Thank you.

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SIMONS: But I do think you're turning the corner on something else, which is deception. Deception practiced by government always costs the people of this country, whether it is the U-2, when the CIA lied when it was first shot down and killed a promising summit between Khrushchev and Eisenhower, whether it was the Bay of Pigs, the secret bombing of Cambodia, Watergate, or the invasion of Grenada. Whenever there is deception, then we pay a price for it. And I don't think it's worth that price.

GRAHAM: We'll be back with more of this discussion.

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GRAHAM: We're back, firing questions at John Greaney and Howard Simons.

Your turn.

MAN: Mr. Simons, my question is addressed to you.

I'm interested in learning what criteria or standard that you would use or encourage your colleagues in the media to use in evaluating what type of information to release to the public.

SIMONS: Well, I think the impulse and the imperative ought to always be to print. But having said that, there are all kinds of yellow lights and red lights that you don't go through. One is when you think you're going to jeopardize a human life. Another is when you think you're going to cause something to blow up. You just don't do that.

And sometimes, to be honest with you, there are national security in which a Director of the CIA or the DIA or the President of the United States convinces you that if you publish it, you really are going to damage the United States. And I tell you, in my own experience, most -- I can't speak for everyone -- most responsible editors never knowingly and willingly carry that kind of information.

GRAHAM: Howard, do you think the Post caved in on this last one?

SIMONS: I don't know of the de -- it's unfair. I don't know enough of the details. I haven't been involved. So for me to say that...

GRAHAM: Next questioner.

JULIAN SHEPARD: My names Julian Shepard. I'm assistant general counsel of the National Association of Broadcasters.

Mr. Simons, the 1950 statute does not require the prosecution to prove that the government was actually harmed by the publication of classified information. Now that Mr. Casey has threatened to use the statute, does it have a chilling effect on journalism?

SIMONS: Oh boy, does it. There are two chilling -- there are three parts to that chilling effect. The first is, as I suggested, people are going to think twice.

Number two, if you're a smaller newspaper, less powerful than the Washington Post, you're going to think three times. Because every time you pick up the phone to call your lawyer, it's \$300 when you say hello.

The second thing is that I think terrorism has given Mr. Casey an ally. Terrorism in the world has given him an ally in this bashing of the press. And that is, people are spooked by it. I'm spooked by it. Everybody's afraid of terrorists. If he says sources and methods will tell us about terrorists, and if you kill that we're not going to know about them, that's pretty heavy stuff.

GREANEY: Well, I think...

SIMONS: Although it's all right for the President to instantly declassify it for whatever strategic or foreign policy reasons he wants.

GREANEY: I think you have to give Mr. Casey his due, and that is the fact that he does have that as a requirement on his plate right now, that terrorism has been placed as an additional requirement, collection requirement for the intelligence community. And it is a major threat.

SIMONS: Did you think the President was wise in suggesting to the Libyans and giving away sources and methods?

GREANEY: I think the President made a decision, as our commander-in-chief, to use...

SIMONS: I didn't ask whether he made the decision. I know he made the decision. Do you think it was a wise decision?

GREANEY: I do. I support the President in using the material that was given to him to explain to the American people why it was done.

SIMONS: But the press can't do that.

GREANEY: That's right, because I think the President is much better informed to make that judgment.

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SIMONS: So it's only the government that can inform the public.

GREANEY: Only the President, in that case.

GRAHAM: I think, with that, we'll turn to the next question.

MAN: Mr. Simons, my question is for you.

But Mr. Greaney, you can comment on it as well.

Mr. Simons, on PBS a few years back, in 1983, you said that you would publish secret documents, saying, quote, "My job is to find them, and finding to publish, because we're not in the business of drawing moral values."

My question is, is it your view that journalism is an amoral profession? In other words, are you concerned that publishing some of these facts may harm journalists or the reputations of various -- not journalists, but various -- the national security or people's reputations?

SIMONS: Sure. And I was concerned about it when I was managing editor. And I can only repeat myself several times tonight, that there are still secrets I carry with me that I never published because I thought they would harm either the national security or human beings.

MAN: Do you think it's an amoral profession?

SIMONS: An amoral?

MAN: Right.

SIMONS: Well, I can't speak for the whole profession or for everybody. I try to be apolitical. But morality is in the eye of the inculcation.

GRAHAM: All right, gentlemen. The next question.

SIMONS: One person's morality is somebody else's immorality, as [unintelligible] pornography.

MAN: My question is for Mr. Simons.

Mr. Simons, Jack Nelson, Washington bureau chief of the L.A. Times, was asked on a TV program last year how he would handle information about a supersecret satellite, disclosure of which would have disastrous consequences for our country. Nelson replied that he would copy them and discuss them with his editor.

And the moderator said that -- commented that he was being somewhat -- he was not being careful about them.

And he replied, quote, "Well, that's not my business to be careful about it. After all, I get it. Hopefully, it's going to wind up in the paper, and there are going to be a lot of people who know about it."

Do you agree with this Mr. Nelson on this point?. [Unintelligible], Meg Greenfield, and Charles Madigan all more or less agreed with him on the program.

SIMONS: I don't mean to be dense, but I don't quite understand the point.

MAN: It is the point that you made earlier, that editors have to be careful and have to check their facts and find out...

SIMONS: But, you know, Jack Nelson had the Glomar Explorer story. Bill Colby asked his boss not to publish it. And it was the editor who made the decision, not Jack, and it wasn't published -- I mean the first story was placed way in the back of the L.A. Times, and then they killed the follow-up stories.

MAN: But do you agree with that quote? I mean is it -- it's not his -- Jack said he didn't have to be careful with it. "Hopefully, it's going to wind up in the paper, and there's going to be a lot of people who know about it."

SIMONS: Sorry, I'm not focusing on it. I still don't -- I don't know whether I agree or not because I don't know the context. I didn't see the program. I can't comment.

GRAHAM: ...that we don't have the quote in the right context. Can we pass on that one?

SIMONS: Maybe John would.

GREANEY: Well, I think that you'd have to consider -- I think what Howard is saying -- I'll support him in this position -- that Jack Nelson is the bureau chief and he goes to an editor. He doesn't make the decision as to what goes in the paper.

And I think the point is well taken. There are responsible editors. And I think his example of the Glomar is very true. That story wasn't leaked in the Los Angeles Times. There were other places where it leaked.

So, I would say that the editor plays a very key role in this kind of situation.

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GRAHAM: We're going to take a break here.

* * *

GRAHAM: We're back with John Greaney and Howard Simons, discussing the media and national security.

MAN: My question is for Mr. Greaney.

Mr. Greaney, Mr. Simons mentioned that he would not knowingly jeopardize the life of an intelligence agent or [unintelligible] our national security through leaking information through the Post, or whatever. When you brief a journalist like Mr. Simons, can you possibly always reveal all the reasons why he or she shouldn't reveal a secret? Can you always be that candid with them?

GREANEY: No. You're very candid with them, but you also develop a degree of trust, and it's over a long period of time that there is a relationship that you begin -- we in the intelligence community would like the editors to come and ask the intelligence community questions as to what is sensitive and what shouldn't be published. That is the ideal solution, to discuss it; not to get it up on the front burner, not make a big issue out of it. We would welcome -- and Mr. Casey has said this himself, that he would welcome the opportunity to discuss material with the editors before the public...

SIMONS: The kinds of things we want to discuss with Mr. Casey, though, he won't discuss. Like, what are they doing? And is it legal? And are they running operations that may not be subject to public scrutiny or...

GREANEY: The legality of the operations isn't the business of the press.

SIMONS: Oh yes it is.

GREANEY: That's the business of the oversight committees.

SIMONS: It's the business of the public of the United States, because it involves their lives and livelihoods.

GREANEY: But it's the oversight committees that are set up by Congress...

SIMONS: Not only. Not only. Not only. And besides, CIA doesn't tell Congress any -- everything.

GREANEY: Oh, they tell them everything.

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SIMONS: Congress is still mad because they didn't know about the mining of the harbor in Nicaragua.

GREANEY: But they did know about it. I'd take issue with that.

GRAHAM: If we may interrupt...

MAN: I think this question happens to be relevant to what your subject -- the subject has turned to.

Someone before mentioned about the press breaking into the Defense Department. And you mentioned the name of Bob Woodward. Well, I was young in the early '70s, but it seems to me that the substantial benefit of having an extra watchdog on the government greatly outweighs the potential detriment of an occasional leak.

GRAHAM: Mr. Greaney.

GREANEY: Well, the watchdog -- I wouldn't consider Bob Woodward a watchdog. I would consider him a little different description, particularly as I started...

[Boos]

GREANEY: ...that business of the example I gave you to begin with. That's not the only stories that Bob Woodward has written that have been damaging to intelligence.

The Watergate situation? I don't think that Bob Woodward was the sole purpose, in deference to your paper. I think the legal system of the United States demonstrated the strength of this country, where you went to the court, you went to the district court, the appellate court, then you went back to the Congress and they laid out the ground rules of whether they would or would not impeach Nixon. I think the strength is on the system.

GRAHAM: Before we go to your final statement, Mr. Greaney, do you want to comment on that?

SIMONS: I thought you were going to ask me about my book.

GRAHAM: I just did.

SIMONS: Haynes Johnson and Howard Simons have written a spy novel, due out in two weeks, called "The Landing." And it's full of spies.

UNIDENTIFIABLE: Notice he says spies, not secrets.

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GRAHAM: He thought I'd never ask that question.

Now, gentlemen, we're getting to the time to wrap this up, [unintelligible] your summations.

John Greaney.

GREANEY: All right. I would like to say that the circumstances around the use of the First Amendment, in my opinion, are a Holy Grail that the press is taking advantage of. And there are limitations on it. The Supreme Court has a whole series of cases. Our association has published a pamphlet on the national security and the First Amendment, and it goes through all the legal ramifications of it.

The specific point that the Supreme Court said, that while the Constitution protects against invasion of individual rights, it is not a suicide pact. And I think that demonstrates that the Supreme Court will evaluate what it is that the public has to understand to be kept secret. This goes back to the days of the Revolution, with George Washington, when he said we had to conduct items in secrecy.

And the Congress has approved money for this. This Congress is elected by the people. The people support the use of intelligence. And until the Congress says there will not be an intelligence community, I think we have to protect the secrets.

GRAHAM: Howard Simons.

SIMONS: Yes. I want to quote two of my favorite people. The first one is myself. And the quote is that I would hope that forever the press in this country will go cloakless and daggerless into the battle for information and news and truth against those who would deny it information, hide news from it, and distort the truth.

But the man who said it best was Federal District Judge Murray Gurfein (?), who during the Pentagon Papers case had this to say about national security. Quote, "Security also lies in the value of our free institutions. A cantankerous press, an obstinate press, a ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression and the right of the people to know." Unquote.

And to that I say amen, amen, amen.

GRAHAM: Gentlemen, this debate is over. The debate, obviously, about freedom of the press and national security will continue in other forums.