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ABC THIS WEEK WITH DAVID BRINKLEY
28 October 1984

NICARAGUA/CIA>BRINKLEY: It may seem that none of the fighters in < STAT
>MANUAL>Central America on either side, any side, need any instruction on how to commit murder. They have, after all, been committing murder in more or less wholesale numbers for years. Nevertheless, the law says that the CIA or any other agency of the U.S. government may not commit, encourage or support assassination for any reason, even among fighters who, whatever we do or say, are going to assassinate their enemies anyway. Before we question today's guests about this, here's some background on a messy, ugly scene from John Martin. John?

MARTIN: This is the cover of the psychological warfare training manual, David. When it surfaced here in Washington 13 days ago, it raised the possibility that the CIA had been training rebels to assassinate Sandinista officials in Nicaragua. If so, it would violate the president's own executive order, but it would reopen some of the deepest wounds suffered by American intelligence agencies nearly 10 years ago. At the Nicaraguan embassy here in Washington this past week, the Sandinista government announced a formal protest. The ranking diplomat, Manuel Cordero accused the United States of complicity in some 1,200 kidnappings and 854 assassinations in Nicaragua in the last three years.

MARTIN: What evidence do you have that they were killed by Contras or by the CIA or by anybody outside their own circle? MANUEL CORDERO (Nicaraguan minister-counselor): Because of witnesses that have testified because of the situation and the report by the army when these things have taken place, people have witnessed that, and the Contras themselves have announced that through the radio station.

MARTIN: The Sandinistas say they took these pictures of children shot to death in March in an area called Rio San Juan and of farm families murdered in May in a cooperative called *Palo de Archo. But there are no death certificates and no witnesses available to ABC News. Some civilians die in combat. That is how the embassy said these Sandinista youths were killed 18 months ago.

Scholars and journalists studying Nicaragua say they are skeptical of the assassination figures. The State Department called them ridiculous. Even so, the Contras claim responsibility for some assassinations. A Jesuit economist says he knew this couple, government officials, who were kidnapped and killed by a Contra, who later confessed. REV. XABIER GOROSTIAGA (former government planner): And he says, 'Yes, I killed them, I killed them because they were Sandinistas, because they were irreductable (sic) persons. I was trained by the CIA.' And he gives us the name of the CIA trainer. 2.

MARTIN: A former CIA analyst says he visited Nicaragua last month and examined records that he said documented about 65 murders of Sandinista election officials, one, a peasant on a local voting board. DAVID MacMICHAEL (former CIA analyst): The door of his house was broken down, a group of Contras came in, dragged him outside in front of his eight-month pregnant wife, six children, castrated him, cut off his ears and then shot him to death.

MARTIN: American CIA officials declined requests for interviews. But Edgar *Chormoro of the Nicaraguan Democratic Force said the American who helped him draft the training manual emphasized the need to control the minds of potential supporters. The document does not use the word 'assassination,' but calls for kidnappings in efforts to neutralize Sandinista officials.

SEN. MALCOLM WALLOP (R-Wyo., Senate Intelligence Committee): What neutralize means to me is basically to reduce the effectiveness of it. There's all kinds of ways of eliminating effectiveness without eliminating life.

MARTIN: This week, the Senate Intelligence Committee got a closed briefing from CIA officials, who could not say who ordered or reviewed the training manual.

SEN. PATRICK LEAHY (D-Vt. Senate Intelligence Committee): Why is everybody scrambling around saying, 'Well, gee, I don't know who authorized it. Did you authorize it? Well, I didn't, maybe it's the guy down the hall. Check with the guy down the hall and he says, 'No, I was gone that day, it must have been somebody else that did it.' After awhile you wonder who's running the show.

PRESIDENT RONALD REAGAN (Oct. 21, Kansas City, Missouri): We're not in the habit of assigning guilt before there has been proper evidence produced and proof of that guilt. But if guilt is established, whoever is guilty, we will treat with that situation then, and they will be removed.

MARTIN: A Senate committee reported in 1975 that CIA officials ordered agents to kill African Premier Patrice *Lamumbo of the of the Congo in 1960, but that his rivals murdered him a year later, that CIA officials tried but failed to have Cuban Premier Fidel Castro killed by

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gangsters in exiles between 1960 and 1965. Later, in Vietnam, the CIA participated in a program with other intelligence and military units which killed some 20,000 Viet Cong officials and agents, mostly in combat, according to William Colby, who helped run the program and later became CIA director. Mr. Colby was a witness before the Senate committee which spent 15 months investigating CIA operations. Both presidents Ford and Reagan issued rules prohibiting anyone working for the United States from carrying out or planning assassinations. The Reagan administration has denounced murder as a tool in Nicaragua or elsewhere. But the episode of the training manual has shaken bipartisan support and raised questions in Congress. SEN. SAM NUNN (D-Ga., Senate Intelligence Committee): I remember very well the discussion in the 1970's about the intelligence agency being like a rogue elephant. And, later, it turns out, after thorough review, the agencies properly or, in some cases, improperly were acting with the knowledge of presidents of the United States.

MARTIN: Late this week, the Senate's select committee on intelligence meets again in secret here at the Capitol. It will call more witnesses to try to find out whether the manual was or was not an invitation to murder. And, if it was, whether the blame lies with the men in the field, the managers at headquarters or somebody else. David?

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ABO6>NICARAGUA/CIA>BRINKLEY: Adm. Turner, Mr. Colby, thanks very much for <
>MANUAL 2>coming in. Here with us are George Will of ABC News, and Sam Donaldson, ABC News White House correspondent. As you both know, as we all know in the middle 70's the CIA got into all sorts of difficulties. It was called a rogue elephant and this sort of thing, and, as a result, it was, if not almost destroyed, it certainly was diminished and damaged. Is that about to happen again? We seem to have one CIA difficulty now after another. Admiral?

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ADM. STANSFIELD TURNER (former CIA director): I think it's almost inevitable it will happen if they don't call off this covert activity in Nicaragua because what's happening is they've been asked to do some things almost impossible to do by this technique. Therefore, the CIA people on the spot are frustrated, and they keep reaching for some new technique or device to get their job done well. What's happened? It's increasingly questionable types of activities they've turned to. The mining of the harbors: the public rejected that; they stopped. Now a manual that advocates assassination; that's against the president's own executive order; they have to stop that. If they keep going, they're going to stretch and stretch.

BRINKLEY: Does it advocate it or simply say how to do it, if you have decided on your own to do it?

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WILLIAM E. COLBY (former CIA director): Neither. In

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fact, what it says, uses, is a single word 'neutralize,' which has all sorts of connotations to Americans, but in the context of the particular manual does not refer to assassination, and it does not mean assassination.

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SAM DONALDSON: What would you think neutralize might mean? COLBY: Neutralize is a general word which means take the person out of action. In Vietnam, it was used to either capturing them, getting them to accept an amnesty or in a fight having them killed.

SAM DONALDSON: Why not use those words then? Why not say... COLBY: They did in Vietnam, but in this context, this was a direction as to how you handle a town after a guerrilla group has taken it over. And one of the items says you have to neutralize the other leadership for the time being. It doesn't say to kill them. TURNER: I'd like to quote from the manual right here. Section 5, this is the heading for the section, 'Selective Use of Violence for Propagandistic Effects.' First sentence: 'It is possible to neutralize carefully selected, planned targets, such as judges.' I don't believe there's any way you can neutralize with violence without risking murder.

GEORGE WILL: But, Admiral, isn't there a kind of artificial clarity here to the distinctions we're trying to draw? That is, we're against, everyone says and the law says, at least an executive order says, we're against assassinations, yet the Contras are described frequently, and I suppose accurately, as freedom fighters resisting a tyranny. Freedom fighters resisting a tyranny are apt to kill the tyrant and the tyrant's agents. Now, where does this become a legitimate fight for freedom and where does it become an illegitimate use of assassination and is it possible to draw that line? TURNER: Yes, I think it's quite possible. We have warfare in which you kill combatants, and we have assassination in which you kill civilians and officials and others. And this clearly, in inciting violence against these people, talks about judges and other such officials.

WILL: But that is exactly the kind of line that guerrilla warfare blurs. Are you saying that guerrilla warfare is going to be exercised by our adversaries in the world, but we will not engage in or support guerrilla warfare?

TURNER: I think it is very clear from the people of the United States and from the Congress of the United States since 1976, when the revelations were brought out that David referred to earlier, that this country has a level of ethical procedure that it won't stoop below. We don't want to go to all the procedures that the communists use. COLBY: I'm the first guy who wrote a directive against assassination. It was later picked up by the presidential

directives. So, I'm against it, that's clear, but if you'll look at this pamphlet in total context, what it's doing is instructing a guerrilla movement that the important aspect of the guerrilla movement is to capture the loyalty of the population. And it specifically says that one of the things that you say when you're talking to the population is that you will not mistreat the enemies of the people, the Sandinistas. That you will, even though they may have committed crimes, you will not mistreat them. Now, it's trying to give a guidance as to how a guerrilla movement should conduct itself so that it keeps its main focus where it should be, on the political aspect, and the violence has a secondary part. In a war you're going to have violence, but it's secondary to the political objective.

WILL: Before you wrote the memo forbidding assassinations, you ran the Phoenix program in Vietnam.
COLBY: Right.

WILL: During which they neutralized, according to our own figures, by 1969, 19,000 Viet Cong agents, including killing 6,000 of them. COLBY: No, the figures are wrong. We captured 28,000. Seventeen thousand took amnesty, which was offered to them, and 20,000 were killed, mostly in military action.

DONALDSON: I want to know how the CIA agency works when it comes to the distribution and the printing of such a handbook as the one that we've been talking about. Someone had to pay for it--I guess that was agency funds--and someone had to authorize it. Just where, is the question. From your experience, where would this be authorized? Would it go to the director? COLBY: It might or might not. If it was clearly identified as an assassination program, it would have gone to the director. Since it was not, since the context of the brochure was clearly a general directive on how to politicize a guerrilla movement, then it might not have gone to him. And the single word 'neutralize' in that sense and the violence could have slipped by. The agency now says it wishes it hadn't happened, but the military wishes they hadn't spent \$15,000 for a coffeemaker, too. It's the supervisory work of the Congress that will keep the agency in line.

DONALDSON: Well, it did go to Langley. It did go to CIA headquarters. It went to some level beyond their first suggestion, it was a mere contract employee somewhere. Admiral, where do you think it went? TURNER: I don't think it went very high because, Sam, this is one paragraph in a 42-page document. I doubt that it would have gone all the way up to the director himself. But the real question is, what instructions did the director and

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the White House give to the CIA for this whole operation?
And I would suggest to you that it's probably against the law.

DONALDSON: If I may, you know that officially, on the record, the administration has to deny that there is any such operation because you mentioned the law, the Boland Amendment, clearly it is against the law. TURNER: Well, it's a question of whether this manual advocates the overthrow of the government.

DONALDSON: I'm talking about the secret war to topple the Sandinistas. COLBY: I think the manual preceded the Congressional action that cut off the aid, so in that sense...

WILL: Let me come back a minute to this distinction. I gather we are aiding the freedom fighters in Afghanistan. It would be shocking if the freedom fighters in Afghanistan were not trying to kill Afghans who are collaborating with the Russian occupiers or Russian-occupying officials. Isn't that assassination, and should we be horrified? COLBY: I happen to support the idea of helping brave men fight for their country, and if that means guerrillas fighting an occupier or a hostile force, then I think we are proper...(everybody starts talking at once)

DONALDSON: ...brave men fighting for their country if they're on our side. You don't see the Nicaraguans and Sandinistas fighting for their country. COLBY: Whichever side, there are brave men on the other side fighting. A fight is usually brave men on both sides fighting.

DONALDSON: Then why do we call one freedom fighters and the other guerrillas?

WILL: Because one side's fighting for freedom.

BRINKLEY: I want to raise an ethical point. Admiral Turner was saying a minute ago that we have a level of ethics and decency below which we will not fall. OK, fine. We give weapons to fighters, guerrillas, Contras, whatever you care to call them, whose cause we sympathize with, in the full knowledge they're going to be used for killing. They have no other purpose. No one complains about that as an ethical matter, but then we write a little book telling them how to use these weapons and how to kill a few people and win their war, and suddenly that's a terrible scandal. Can you explain that to me? TURNER: Sure. The reason this particular covert activity in Nicaragua is in such deep trouble was predicted by the Church committee report in 1976. It said this kind of covert activity has never in the past been successful,

This nation today is not agreed on what we should do about Nicaragua. It is agreed, George, on what we should do about Afghanistan, and therein lies the difference. That we are willing as a nation to support this kind of unethical activity in an Afghanistan because we know where the country should go there. We don't know where we want to go in Nicaragua, and we don't support it.

BRINKLEY: Is it ethical, therefore, to give them guns?
TURNER: In Afghanistan?

BRINKLEY: No, in Nicaragua. TURNER: Yes, I believe it's ethical to give them guns, but I think it's against the law of this country to be supporting the overthrow of the government of Nicaragua, and that's the way I read this manual. And if you don't read the manual that way and are more generous towards it, you have to at least admit that people to whom we are giving it are certainly going to use it to overthrow the government in Nicaragua, and that's at least against the spirit of what the Congress has said it wants the CIA to do. COLBY: If we give them guns, it seems to me that it's quite logical to give them direction as to how to conduct a guerrilla war most effectively, and that means putting the major focus on the political aspect. I happen to be very ambivalent about the aid to the Contra program because I think that the main focus of our effort in Central America should be to build the strength in El Salvador, Honduras and the democratization process in Guatamala, and that the Contra action probably debilitates our overall support of that particular program and that strategy. But, nonetheless, it has been approved in the past. The House of Representatives has now objected to it. Pur aid to the Contras has stopped until, unless the House removes that authorization next spring.

BRINKLEY: Well, thank you very much. Thank you Admiral Turner, Mr. Colby. Thank you for coming. We enjoyed hearing your views.

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AB07>NICARAGUA/CIA>BRINKLEY: We're back, and Sam is trying to get a question <
>MANUAL 3>in. Sam?

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DONALDSON: Sen. Goldwater, should we have assassination as part of a CIA plan under any circumstances? GOLDWATER: No, I don't believe so. That's specifically prohibited, uh, not just by laws that have been passed recently but old laws that prohibit the CIA or any other member of our intelligence family from attempting assassination.

DONALDSON: Would you agree then that the CIA ought not to persuade others to engage in assassination? GOLDWATER: I, I don't believe that under the operation of the United States or any part of the operation of the United States

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Approved For Release 2008/04/28 : CIA-RDP91-00901R000500060005-5

that we should, under law, advocate anybody attempting assassination. That's up to the individuals who are trying to fight their way to freedom. If they want to assassinate, that's their business.

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DONALDSON: Then why not use a word other than neutralize? Why not say capture if that's what you mean? Why use a word that's open to the ambiguities of that word to an interpretation that's contrary to what you just expressed?

GOLDWATER: Well, I didn't write the book. If I wrote the book I might have used some other word. Neutralize is a very, very broad word. I've checked with all of my Spanish-speaking friends out here. I speak Spanish myself, and it has no different meaning in Spanish than it has in English. Uh, if it was going to raise all that kind of fuss, use another word.

DONALDSON: Sen. Moynihan, when they wrote the word, neutralize, whether it was copies or whether it was original, do you think the author meant to imply that perhaps assassination was all right, or do you think the author meant to say that the United States forbids it?

MOYNIHAN: Look, a little common sense here, the Army lesson plans that use the word removed, it speaks of having the populists gather and take part in the act. Now look, there's a rule that organizations in conflict become like one another, but I don't want us to become like the communists in what they will do. There are things Americans won't do, and I can't think that this has helped us one bit in advancing democratic principles in Central America. And Barry, I don't think you think so either. And in either event it is specifically prohibited by presidential executive order.

BRINKLEY: Well on this point, whoever was going on about this Socratic dialectic view, we might have expected to be able to choose his words carefully, wouldn't we?

MOYNIHAN: They chose the words carefully, they meant, they were talking about a practice technique, specific, formal technique of the Chinese Communists, when they were taking over China. Every time they came to a village they identified somebody as a landowner, an oppressor. They got everybody together in the town, village, and they formally shot him. That's what they're talking about.

DONALDSON: Sen. Moynihan, if I may change the subject slightly, President Reagan this past week endorsed the idea that Americans could go down and join in the Contras and fight with them, endorsed it to the extent of saying that he would not interfere with it, and as a matter of fact he thought there was a long tradition in this country of doing that type of thing. Do you agree? MOYNIHAN: Well, they better not bring arms with them, or they're in violation of American law. But if they do, I hope they

know what is awaiting them because it's a very casual thing to tell Americans to go down into those jungles. They are full of snakes and AK-47s. 7.

WILL: Sen. Moynihan, I want to come to a minute ago. You said there's some things American's won't do. Now this country two generations ago dropped an atomic weapon on civilian populations, created a firestorm deliberately, using incendiary bombs in Dresden and Hamburg. Now, having killed in the interest of getting rid of a tyranny and establishing democracy in Germany, which we did by doing this sort of thing. (sic) Now, why is it, I don't understand, why is it that it is suddenly us becoming like the other side, when we do kill our Sandinista officials one at a time instead of in job lots of 80,000 as we did killing innocent civilians during the second world war.

MOYNIHAN: George, we are describing here a technique of communist terror. It's called explicit and implicit terror, and no thanks. I think we can do our work in the open and be Americans and be democrats and don't have to apologize. Do you think we have helped democracy, whatever chance it has, of coming back to Nicaragua? I don't.

BRINKLEY: Let me ask a question on a slightly different but nevertheless related subject. Secretary of State Shultz this past week made a speech discussing the, discussing American retaliation against terrorists, those who blow up our embassies and so on. And he said the American people must understand there will be, when we do this, some loss of life among our servicemen and of innocent people. And he has, more or less I think, depending on what's happened in the last 10 minutes, been disowned by the Reagan administration, yes on one day and no on the next. I don't know where they stand. What do you think about the Shultz's speech? Sen. Goldwater, what do you think? GOLDWATER: Well, I think Secretary of State Shultz was absolutely right. If you're going to stamp out terrorism around this world and in this country, and we're only beginning to see it, we have to stamp out the people who practice this. Now, this is nothing new in this world. *Klauswitz wrote about terrorism and war a long, long time ago. We never dreamed we'd see terrorism in peace, but we're seeing it. And the only thing they understand is what they're practicing. If they want to stamp us out, we'd better stamp them out first. And if we lose somebody here and there, that's a lot better than losing tens of thousands of people.

BRINKLEY: Sen. Moynihan? MOYNIHAN: George Shultz is a deeply responsible man and not a casual one to call for killing even innocent persons. But you know if you're going to kill them, you'd better know who they are, and it's a very hard thing to do. And I would trust George

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Shultz to make the judgment. I wouldn't trust the people who put this manual out about Nicaragua to make that judgment.

ARTICLE APPEARED
ON PAGE D-1WASHINGTON TIMES
11 October 1984

DIANA HEARS

UNDERCOVER . . . Wrap the wok, with the utmost discretion, for former CIA chief Bill Colby. (Bill, recall, Told Almost All in "Honorable Men" and "My Life at the CIA," his two bang-up books.) Last week, 64-year-old Bill polished off a low-key Virginia divorce from his wife of 39 years, Barbara. This week, he quietly hitched to fair, fortyish Sally Shelton, Jimmy Carter's Ambassador to Barbados. She's now a Veep at Banker's Trust in the Big Ap; he's a bigwig with a hotshot international lobbying biz right here. But both are bobbing 'round the Islands on a honeymoon cruise 'til things settle down. Ear, of course, is thrilled but astonished. As usual.

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FOR PUBLIC AFFAIRS STAFF

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PROGRAM This Week with David Brinkley STATION WJLA-TV
ABC Network

DATE October 28, 1984 1:30 P.M. CITY Washington, D.C.

SUBJECT Full Text

DAVID BRINKLEY: Over the years, Central and South America have received from the United States loans from banks, loans from the U.S. Government, cash grants, Peace Corpsmen, various experts offering advice, cash payments for such commodities as lumber, shoes, steel, bananas, coffee, cocaine, plus, once in a while, visits by the United States Marines, and now military advisers in Central America and a sort of tutorial explaining how to fight a civil war and how to neutralize leaders on the other side.

Well, what is going on? Is the CIA again out of control, as it once was said to be? Are our elected leaders aware of what it is doing?

We'll ask today's guests: Senator Barry Goldwater of Arizona, Chairman; and Senator Daniel Patrick Moynihan of New York, Vice Chairman of the Senate Committee on Intelligence. Admiral Stansfield Turner, former Director of the Central Intelligence Agency. William E. Colby, also former Director of the Central Intelligence Agency. Some background from our man John Martin. And our discussion here with George Will, Sam Donaldson, and Hodding Carter.

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BRINKLEY: It may seem that none of the fighters in Central America on either side, any side, need any instruction in how to commit murder. They have, after all, been committing murder in more or less wholesale numbers for years. Nevertheless, the law says that the CIA or any other agency of the U.S. Government may not commit, encourage, or support assassination for any reason, even among fighters who, whatever we do or say,

ARTICLE APPEARED
ON PAGE A-13

NEW YORK TIMES
8 October 1984

Disclosing Secrets to the Press U.S. Calls It Espionage

By STUART TAYLOR Jr.

Special to The New York Times

WASHINGTON, Oct. 7 — The arrest of a Navy employee accused of selling classified photographs to a British military magazine raises the question of whether the espionage laws can be used to prosecute people who make disclosures to the press.

The charge filed last Monday against Samuel Loring Morison, a civilian intelligence analyst said to have sold American satellite photographs of a Soviet aircraft carrier under construction, marks only the second time that the Federal espionage laws have been used to prosecute an official or former official for disclosing classified information to a publication, legal experts said.

The first, which was dismissed because of prosecutorial misconduct, was the Nixon Administration's indictment of Daniel Ellsberg and Anthony Russo, who were accused of unauthorized disclosure of the Pentagon Papers, a Defense Department study of the Vietnam War. The New York Times and other newspapers published the documents in 1971.

Some Concern Is Seen

The Ellsberg prosecution alarmed press organizations and civil libertarians, who feared that such uses of the espionage laws could inhibit informed public debate on national defense issues. Legal experts disagreed this week about whether the prosecution of Mr. Morison, who also works as a part-time journalist, posed such a threat.

Dean Benno C. Schmidt Jr. of the Columbia Law School said he would be concerned if the courts adopted the Justice Department's broad reading of the sections of the law Mr. Morison is charged with violating. They state that it is a crime to disclose information "relating to the national defense" that could be used to harm the United States.

"You will have two statutes that are lying around like loaded guns ready to be pointed at all the participants in the process of disseminating information about defense issues, including reporters and sources," Mr. Schmidt said. The Justice Department's interpretation of who is "not entitled to receive" classified information would seem to make no distinction between an American newspaper, a British magazine or a Soviet spy.

The use of such a broadly worded law to punish acts leading to publication would be troublesome, Mr. Schmidt said, even if the Government could establish that the national security had been harmed.

Threat to Nation a Key

On the other hand, Jack Landau, head of the Reporters Committee for Freedom of the Press here, said, "It does not pose a threat to the press to prosecute somebody who gives out information that is a direct, immediate and irreparable threat to the national security."

Mr. Landau added that in his view the espionage laws require the prosecution in a case like Mr. Morison's "to prove that the information is of significant damage to the United States or helpful to a foreign power and that the person who released it knew that or had reason to know it."

Mr. Morison, who has not entered a plea in the case and is being held under \$500,000 bail, is the part-time United States editor of Jane's Fighting Ships, a well-known London military publication. He is charged with selling three photographs of a Soviet aircraft carrier under construction to Jane's Defense Weekly, an affiliated publication. The price for the pictures, which the authorities say he took from a colleague's desk, was not disclosed.

No Intentional Harm Alleged

Jane's published the photographs in August. They were reprinted in various American newspapers, including The Washington Post and the National Edition of The New York Times.

The Government has not alleged that Mr. Morison, grandson of Samuel Eliot Morison, the nation's foremost naval historian, was a foreign spy or that he intentionally harmed the national security. Nor has it specified any damage resulting from his actions.

But Pentagon officials were said to be angry because publication of the photographs revealed the advanced capabilities of United States reconnaissance satellites.

According to many experts on military issues, however, the satellites' capabilities are no secret. Similar aerial photographs of airfields in Nicaragua and Grenada have been repeatedly published by the Defense Department. William E. Colby, a former Director of Central Intelligence, has said publicly that the satellites can read the license plates on a Soviet car.

Justice Department officials would not comment when asked what potential enemies could have learned from publication of the ship photographs that they did not already know.

Disclosures Are Commonplace

"The agency he worked for classified these documents as top secret," said William Carter, a spokesman for the

Federal Bureau of Investigation, "and the unauthorized dissemination of an espionage law enacted in 1917 would have much the same effect. Mr. Morison is charged with violating the broadly worded sections 793(d) and (e) these documents is a violation of Federal law."

Millions of documents about military activities that do not involve truly sensitive information are routinely classified as secret by the Government. Unauthorized disclosures of classified information by Government employees to reporters are commonplace. So is publication of such information, although almost all news organizations say they have no intention of harming national security.

Congress has repeatedly rejected proposals to pass an official secrets act explicitly making disclosure of classified information a crime. But under the Justice Department's interpretation, of the Criminal Code, which derive from the 1917 law.

Taken together, these two sections make it a crime for anyone "willfully" to disclose to "any person not entitled to receive it" any documents or photographs "relating to the national defense," or any other "information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States, or to the advantage of any foreign nation." The maximum penalty is 10 years in prison and a \$10,000 fine.

A.C.L.U. Takes Narrow View

An Administration study group, in a report advocating a crackdown on unauthorized disclosures of classified information, said in 1982 that sections 793(d) and (e) "would be violated by the unauthorized disclosure to a member of the media of classified documents" involving the national defense. Intent to injure the United States or benefit a foreign power need not be proved, it said, as long as "documents or other tangible materials" are involved.

The report added, "These laws could also be used to prosecute a journalist who knowingly receives and publishes classified documents or information."

Morton Halperin, head of the Center for National Security Studies of the American Civil Liberties Union here, said that despite their broad language, sections 793(d) and (e) were meant by Congress to apply only to "secret transfers of classified information to foreign powers." He said they would violate the First Amendment if applied to a case like Mr. Morison's.

WASHINGTON POST
7 October 1984

Westmoreland Libel Case Seen as Groundbreaker

STAT

By Eleanor Randolph
Washington Post Staff Writer

Starched and confident as he stood in a Pentagon briefing room 17 years ago, Gen. William C. Westmoreland showed no visible reservations when he said that peace in South Vietnam "lies within our grasp."

"The enemy's hopes are bankrupt," the commander of U.S. forces in Vietnam assured reporters and their audience of Americans, many troubled and divided by this distant war.

Fifteen years later, in a 90-minute television documentary

called "The Uncounted Enemy: a Vietnam Deception," CBS charged that Westmoreland and other high government officials were conspiring at the time to keep the enemy's actual strength a secret not only from the press and public, but also from the president.

It could be argued, CBS said, that such rosy predictions about the war left Westmoreland's commander in chief, President Lyndon B. Johnson, unprepared for the Tet offensive in January 1968 when the enemy waged a massive guerrilla attack in spite of Westmoreland's rosy predictions that their numbers were waning. Such a tactical blunder, according to CBS, helped lose the larger war for public support.

Now CBS and Westmoreland will defend their versions of this pivotal time in the Vietnam war in a trial expected to become one of the most important and perhaps bitter courtroom dramas of this decade.

It is a battle for reputations, in one sense, as Westmoreland's attorneys accuse the network of bad journalism and CBS lawyers charge that Westmoreland hid the truth about the unpopular war.

But the trial of Westmoreland's \$120 million libel suit against CBS, scheduled to start Tuesday in U.S. District Court in New York, is more than the latest skirmish between titans from the media and the mil-

itary. Some of those observing say the trial could be the first major and official inquiry into this crucial period of the war.

Years and miles from the conflict, scholars for the military and the press also hope for new answers, or at least new perspectives, about whether the war was lost on the battlefield, in the war rooms or during the nightly news.

And, as the inner workings of a major network are revealed, some other issues also could emerge that have become emotional in a society increasingly critical of its press establishment.

For example, can a public official sue successfully over press criticism of his job? Can a journalist have preconceived beliefs about a story? There also is the even larger question of whether the press has become as arrogant now as some in government and the military seemed to be 20 years ago.

"Among the questions in dispute will be whether the high U.S. military command in Vietnam engaged in willful distortion of intelligence data to substantiate optimistic reports of the progress on the war and whether one of the nation's most important distributors of news and commentary engaged in willful or reckless slander," wrote U.S. District Judge Pierre N. Leval, who will try the case.

As Leval explained last month when he reluctantly turned down a request that the trial be televised, the drama to be played out in his courtroom is destined to be "a rare debate and inquiry on issues of highest national importance."

It also could be a rare opportunity for some of the most reluctant managers of the Vietnam war to go on the record in their testimony about one of the war's most crucial periods: the months before the Tet offensive.

The case will feature some of the big names from the Vietnam era,

including television journalism stars. Also important could be some of the usually anonymous military and intelligence people who are expected to tell how they did their wartime jobs.

The lineup of witnesses available for Westmoreland reads like a "Who's Who" of the Johnson administration, including former secretary of defense Robert S. McNamara, former secretary of state Dean Rusk, former CIA directors William E. Colby and Richard Helms, Gen. Phillip B. Davidson, Gen. Joseph A. McChristian and President Johnson's special assistants on national security affairs,

McGeorge Bundy and Walt W. Rostow.

By contrast, CBS has as potential witnesses a number of intelligence analysts who worked for the Army and the CIA in Vietnam and Washington as opposed to the policy-makers who are potential witnesses for the other legal team.

As David Halberstam, author of "The Best and the Brightest" and one of CBS' potential witnesses, said: "What you have here is most of the people who were the sources for those of us covering Vietnam. They are the ones testifying for CBS—the people who actually did what the brass told them."

As the trial nears, it becomes apparent that Westmoreland will try to concentrate on the issue of whether he misled President Johnson, instead of whether he distorted facts to the press, the public and Congress. It also has become clear that the big names have become more important in this trial.

David Boies, the lead attorney for CBS, said at a news conference Friday that the policy-makers from the era will be asked "whether they were part of the deception or part of the deceived."

In many ways, the event that spawned this legal drama was an internal conflict between two arms

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NEW YORK TIMES
1 October 1984

ABROAD AT HOME | Anthony Lewis

Out to Lunch

BOSTON

President Reagan's attempt to blame anyone and everyone but himself for the security failure at the American Embassy in Beirut has discomfited even some of his admirers. But they have not allowed themselves to see the real point of the contemptible episode. That is that Ronald Reagan feels no responsibility — not for the Embassy and not for anything done by the United States Government.

Just try to puzzle out his suggestion last week that weakening of U.S. intelligence before he took office led to the terrorist success in Beirut. The relevant part of his answer to a college student's question about the bombing was:

"Where we're feeling the effects today of the near destruction of our intelligence capability in recent years — before we came here — the effort that somehow to say, well, spying is somehow dishonest and let's get rid of our intelligence agents, and we did that to a large extent."

The first thing to be said about that comment is that it was factually untrue. Past and present C.I.A. officials rushed to deny that the agency had been brought "near destruction" by Mr. Reagan's predecessor.

When former President Carter took offense at what he called Mr. Reagan's "false" and "insulting" claim, Mr. Reagan telephoned to explain that he had not meant to criticize Mr. Carter. He said he really meant to blame the Senate committee under the late Frank Church. But the Church committee investigated C.I.A. excesses such as plots to assassinate foreign leaders; it did not aim to cut intelligence-gathering activities.

The second thing to be said is that the President's comment was irrelevant. For the immediate failure in Beirut was a physical one: The failure to install gates and other security devices that the experts had said were needed. William Colby, former Director of Central Intelligence, put it: "The problem was not a failure of intelligence but a problem of putting in proper security."

The President's comment was, then, a mélange of untruths and irrelevancies. But I am convinced that Mr. Reagan fully believed what he said. That is why the episode is so revealing.

The point is that Mr. Reagan sees the world through a screen of ideology. The beliefs that make it up are fixed; no reality can dislodge them. Thus he believes that the United States "unilaterally disarmed" in the years before he took office, and no facts about the upgrading of our nu-

clear arsenal can change his mind.

One of the items in the Reagan ideological canon is that critics destroyed U.S. intelligence capabilities in the 1970's. And that was what came to mind when the President felt himself challenged on the Beirut failure. It was an ideological reflex.

The grip of ideology on his mind gives Ronald Reagan an extraordinary political advantage. He can blame whatever goes wrong on things beyond his control, and he can do so with perfect sincerity. Failure abroad must be a product of past weakness, of insufficient anti-Communist zeal. Trouble at home must be the result of Big Government, and we all know he is against that. He is never an incumbent.

In short, ideology enables Mr. Reagan to escape responsibility. And it is all genuine, in the skin-deep sense. He is not a person who is aware of a mistake and skillfully covers it up. He does not feel any responsibility, and hence he feels no guilt at failure.

George Will, the conservative commentator, wrote a thoughtful column criticizing the vapid excuses offered by the President and others for the Beirut bombing. But his conclusion missed the point. Mr. Reagan, he said, needed to make subordinates fear penalty when there was failure. But a President who feels no responsibility himself — who sees failure in ideological terms — cannot provide such leadership.

The most amazing thing about Ronald Reagan as a politician is his success in convincing the electorate that he is a "strong leader." His postures may look strong, to others as to him. But in the concrete terms that really measure political leadership, he is just not there. He is the most passive, the remotest President since Calvin Coolidge.

Alexander Haig called this White House "a ghost ship." We have a Government in which the President does not decide the most urgent issues of policy: arms control, the priorities of negotiation with the Soviet Union, Middle East policy. We have an unaccountable President. That is the larger, and the chilling, reality behind Mr. Reagan's conduct in the Beirut episode. □

NEW YORK TIMES
28 September 1984

MONDALE CHARGES REAGAN IS EVADING BLAME IN BOMBING

Carter and Former Leaders of C.I.A. Assail President as Wrong on Intelligence

By HEDRICK SMITH

Special to The New York Times

WASHINGTON, Sept. 27 — Walter F. Mondale accused President Reagan today of an "inexcusable" attempt to shift the blame for last week's bombing of the American Embassy in Beirut. Earlier, the White House sought to soften Mr. Reagan's implication that the fault lay with the "near destruction of our intelligence capability" before his Administration took office.

At a news conference after his meeting in New York City with Andrei A. Gromyko, the Soviet Foreign Minister, Mr. Mondale asserted that Mr. Reagan should quit trying to pass on the blame for the incident.

"The latest statement by the President is inexcusable," Mr. Mondale said. "He should stand up and say he is responsible. By staying the C.I.A. is weak, he encourages terrorists and our enemies around the world to believe that we don't have an effective intelligence capacity, when we do."

It was one of Mr. Mondale's most blistering criticisms of the President.

Reagan Charges Distortion

In Washington, Mr. Reagan complained to reporters about "the way you distorted my remarks about the C.I.A."

The White House spokesman, Larry Speakes, said the President was referring to "reports in the media putting the blame entirely on the Carter Administration." Several reporters said they had based their articles Wednesday on guidance from Reagan White House officials.

But today Mr. Speakes said the President had been talking about "a decade-long trend and a climate in Congress" in which "human intelligence had been weakened considerably."

Rebuttal on Intelligence Cuts

He added that the President had not meant that this trend had led specifically to the bombing, although Mr. Reagan's comments had come in answer to a specific question about that incident. Two Americans and an unknown number of Lebanese died.

More broadly, several former senior intelligence officials said the cutback in overseas intelligence agents began in 1967, long before the Carter Administration. It was carried out, they said,

under Presidents Johnson, Nixon, Ford and Carter, and by 1978, the Carter White House had reversed the trend and was pushing for increases in intelligence funds.

Moreover, several officials said, there had been no intelligence failure before the Beirut bombing because warnings from terrorist groups about such an attack had been made public.

Former President Jimmy Carter, saying he had previously restrained himself in the face of "a stream of false assertions" by President Reagan, issued an unusually strong statement. It charged that Mr. Reagan's "claim yesterday that his predecessors are responsible for the repeated terrorist bombings of Americans is personally insulting and too gross in its implications to ignore."

"He only has to question his own Administration officials to determine that his statement was also completely false," Mr. Carter added. "This series of tragedies in the Middle East has been brought about by the President's own deeply flawed policy and inadequate security precautions in the face of proven danger."

"His frivolous reference to tardy kitchen repairs is indicative of his refusal to face the reality of his own responsibility," Mr. Carter went on, alluding to Mr. Reagan's likening of constructing security barriers to getting a kitchen remodeled on schedule. "Mr. Reagan should apologize for these misleading statements," Mr. Carter asserted.

Mondale Sees a Divisive Move

Mr. Mondale said it was wrong for Mr. Reagan to suggest any division between the two major political parties on the need for a strong Central Intelligence Agency and to imply that he had inherited a weakened intelligence network.

Mr. Reagan's comment came in response to a student's question about the Beirut bombing at a campaign stop at Bowling Green State University in Ohio Wednesday. As he had said previously, Mr. Reagan observed that no security "can make you 100 percent safe" and "an embassy is not a bunker."

Then he turned to "the real problem," feeling the effort to reconstruct of our intelligence in recent years. "The effort that we are making in spying is some of the best we've ever done. We get rid of our spies. We did that for years."

Seeking to

"Your biggest problem is that we're trying, to where you're trying to advance what we've prepared for it."

Campaigning in Saginaw, Mich., Vice President Bush, who was a Director of Central Intelligence in 1976, said today that it would be wrong to interpret Mr. Reagan's comments as laying the blame for the Beirut bombing on the Carter Administration.

"But I do believe there were cuts made in the intelligence business that were inappropriate," Mr. Bush went on. "Laying off a lot of people and thus curtailing a lot of our sources on intelligence was not good for the overall intelligence community, and I think that's what the President's trying to say."

Former intelligence directors as well as Democratic politicians took issue with Mr. Bush's implication that this began with the Carter Administration. William E. Colby, who served in a Republican Administration as Director of Central Intelligence from September 1974 to January 1976, also called Mr. Reagan "mistaken on two counts."

"The first is that we began to reduce the size of the agency in 1967," Mr. Colby said. There was a gradual decline in numbers because there was a decline in covert action, in operations that try to influence other countries and a shift to intelligence collection and analysis, he said.

"The second is that the problem in Beirut was not a failure of intelligence but a problem of putting in proper security," Mr. Colby added. Mr. Speakes said that was the burden of a report given the President today by Robert Oakley, the State Department's top specialist on terrorism.

Other senior former intelligence officials said Richard Helms and James R. Schlesinger, the Directors of Central Intelligence under Presidents Johnson and Nixon, had eliminated 1,000 to 1,500 overseas agents under a deliberate plan to scale down the agency as American involvement in Vietnam and Southeast Asia was phased out.

Senate investigations of the agency in the mid-1970's led to disclosures of assassination plots, drug experimentation with unwitting human subjects, surveillance of Americans and a string of other abuses that hastened the agency's shift away from agents to increasingly sophisticated satellite, electronic and photographic intelligence-gathering.

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