

EXHIBIT “1-A”

Muzzling the messenger The Washington Times August 10, 2004 Tuesday

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The CIA and prepublication rights

The anonymous author of "Imperial Hubris: Why the West is Losing the War on Terrorism" made headlines recently when he condemned the Bush administration's decision to invade Iraq in 2003 and lambasted policy officials for trying to create a Western-style democracy in Afghanistan. While routine cocktail-party chatter often repeated these criticisms, what made these so unique was that they originated with a current employee of the CIA.

The book's publisher noted that the "U.S. government agency at which this author is employed required that 'approval for this manuscript is predicated upon the author maintaining his anonymity and also that his association with the Agency is not disclosed.'" "Mike," as he is known, is an overt 22-year-veteran CIA analyst who, according to former colleagues, served as the station chief for the bin Laden desk. Over the past few weeks, "Mike" made the rounds of national television programs, always hidden in shadow, and often provided interviews to newspaper reporters.

One senior intelligence official stated, "We would prefer officers keep their personal views personal, but we are not in position to prevent him from expressing his personal views in writing done on his own time." This is untrue. The CIA could have prevented the publication of the book without blinking an eye. According to the publisher, the CIA has now muzzled "Mike." Effective immediately, "Mike" is prohibited from giving interviews without prior written approval, and approval must be requested at least five business days in advance. "Mike" must also provide the CIA with a detailed outline of his intended statements.

There is nothing unusual about these requirements. They are completely consistent with the CIA's existing regulations. But one must still ask what led the CIA to allow publication of this book in the first place.

Every CIA employee must execute a secrecy agreement pledging, subject to civil and criminal penalties, not to disclose classified information. The agreement contains a prepublication review clause that mandates submission of all writings that bear relation to the individual's work or the CIA. This requirement extends past employment into perpetuity.

While those who work for the CIA do not relinquish their First Amendment rights entirely, they are severely curtailed. To be sure, no one has a right to publish classified information. The debate that arises is whether the information is classified. For former employees, that is the only power the CIA has to prevent publication. Sadly, this authority is routinely abused. And because the CIA has such broad authority, its determinations are virtually unassailable.

The CIA's regulations explain that the prepublication review requirement does not apply to "material that is totally unrelated to intelligence or employment matters, such as cooking, gardening, or purely domestic political matters" or material that consists "solely of personal views, opinions, or judgments on matters of public concern and does not contain or purport to contain any mention of the CIA, intelligence activities or data, or information on any topic about which the author had access to classified information."

Given the book's topic, "Mike" was required to submit his manuscript for prepublication review. Although the book did not contain classified information, the analysis does not stop there. The regulations state clearly that "for current employees and contractors, the Agency may also deny permission to publish statements or expressions of opinion that could reasonably be expected to impair the author's performance of duties, interfere with the authorized functions of the CIA, or have an adverse impact on the foreign relations or security of the United States."

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The CIA historically has sought to stifle criticism even from former directors. Adm. Stansfield Turner described the process as arbitrary and irresponsible when the CIA tried to censor portions of his "book's highly critical view of the Reagan administration's mishandling of our intelligence activities, especially its indifference to any oversight of the CIA."

Former intelligence officer, Frank Snepp, who wrote the best-seller "Decent Interval," was sued by the government. Though the CIA claimed the book did not contain classified information, it successfully obtained a civil judgment that Mr. Snepp violated his contractual obligations for failing to submit the manuscript for prepublication review. Nearly 30 years later, every royalty check Mr. Snepp earns is turned over to the government.

Even if "Mike" had sought to challenge the CIA's refusal to allow publication of his book, no court would have disagreed until at least after he had left the CIA's employ. Even then, the CIA could have delayed publication by years.

Why then did the CIA allow this manuscript to be published? Perhaps because it was the very message senior CIA officials wanted public after having failed with any effect to convey similar messages privately.

It is well known that the general criticisms presented by "Mike" are more widespread within the CIA than is publicly acknowledged. Given that the CIA does nothing willingly that it does not view as advancing its own agenda, the book's publication should not be construed as an example of the CIA's dedication to the First Amendment.

To the contrary, it was probably a parting shot to a White House fighting an increasing perception of a failed terrorism/Iraq policy or the vehicle for a still-hidden agenda. With that agenda accomplished, "Mike's" apparent usefulness to the CIA has ended, and now he has been silenced.

Mark S. Zaid is a Washington lawyer who routinely handles national security cases, including CIA prepublication review challenges.

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