

Testimony of

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UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
HEARING ON
EXAMINING DOJ'S INVESTIGATION OF JOURNALISTS WHO
PUBLISH CLASSIFIED INFORMATION:
LESSONS FROM THE JACK ANDERSON CASE
SCHEDULED FOR TUESDAY, JUNE 6, 2006 AT 9:30 A.M.

Chairman Specter, distinguished members. Thank you for the opportunity to address the events surrounding the FBI's efforts to gain access to my father's papers and whitewash the record of history.

I will address two issues. First, the events surrounding the FBI's request to have access to my father's journalistic work papers gathered during his sixty-plus years as a reporter. Second, I will present my family's view of how our father and husband would have reacted to a government investigation of journalists who publish classified information.

About six weeks after my father passed away, FBI Agent Leslie Martell contacted my mother and requested to meet regarding Dad's papers. As the attorney in the family, Mom asked me to contact Agent Martell. During that call, I made it clear I was acting as counsel for my mother and the family. Agent Martell told me that the FBI had information that there might be "classified" documents in Dad's papers that would help the government with a criminal investigation involving a Middle Eastern country. I was left with the impression that the FBI's investigation concerned terrorism. Agent Martell assured me that neither Dad, Mom nor any member of the family was the target of the investigation.

As several of the Committee members are personally aware, Dad often cooperated with criminal investigations, where it would not violate the confidentiality of his sources. I told Agent Martell that she could meet with Mom.

When I talked to Mom after the meeting, she was anxious to tell me that Agent Martell's family had roots in West Virginia, where my mother was born and raised, and might be related to us. This information was of more interest to Mom, an avid genealogist, than what the FBI wanted. All she said about that was that it involved some of Dad's papers from the 1970s.

My Mom, who actually worked for the FBI in the 1940s, cooperated with the FBI's investigation. She told them that the boxes were at the Gelman Library at The George Washington University and how to get in touch with Dr. Mark Feldstein at GW and Dr. Tim Chambless in Utah, both of whom had reviewed the contents of the boxes. With the family's blessing, Dr. Chambless even sent Agent Martell a 12 page inventory of the 80 boxes he had reviewed.

Several weeks later, Agent Martell called and asked about the ownership of the documents. In light of concerns we had about exactly what the FBI was after, I told her that the family would need more information regarding what the FBI wanted from the documents. Shortly after this second conversation, I received a call from GW. I was told that the FBI claimed they had a "consent" to review the papers signed by Mom. This was the first I had heard about a "consent." I immediately called Agent Martell. I was upset that I was not told about the "consent." She was very apologetic and a conference call was arranged for the following week.

That call was with Agent Martell, her Division Chief and one of the U.S. Attorneys General handling the criminal case. I was told that access to Dad's papers was in connection with the prosecution of Steven Rosen and Keith Weissman, American citizens who had worked as lobbyists for the American Israel Public Affairs Committee (AIPAC). The FBI said it had information about "classified" materials being passed to or from Dad or one of his reporters in the early 1980s. They said they wanted access to Dad's documents to see if either Rosen's or Weissman's fingerprints were on any government documents. I told the agents that it was extremely unlikely that Dad's papers contain material relevant to that case.

I was troubled that the FBI's request related to the AIPAC prosecution and concerned that the government could try to apply the 1917 Espionage Act to journalists. Dad would have vigorously opposed such an effort. The FBI and Department of Justice representatives assured me that they were not after Dad's sources, family members or George Washington University for possession of "classified" documents.

In discussing the potential scope of a review of Dad's papers, assuming the family were willing to cooperate, the agents made it clear that they intended to review all of Dad's papers, regardless of their relevance to the AIPAC case. In addition, they repeatedly stated that they would be "duty bound" to remove any and all material they suspected might be "classified" and either permanently retain them or return them in some redacted or edited form. This would destroy the historic, political and cultural value of Dad's papers.

My efforts to limit the scope of the intrusion were rejected. In fact, when I offered to review the papers personally to locate anything that related to the AIPAC case, I was told that because I did not have security clearance, I could not review the documents.

In early April, I attended a meeting with the FBI, Dad's former First Amendment attorney, Michael Sullivan, and an attorney for GW. I came to believe that the AIPAC "investigation" was at best a broad fishing expedition. At worst, I saw it as a pretext for the FBI to learn what it could not discover about his sources when he was alive. The family met and instructed Mr. Sullivan to reject the FBI's request. A copy of his letter is attached. We have publicly stated, and reiterate here, that we would oppose the efforts of the government to review Dad's papers, even to the point of going to prison.

I would like to explain why we feel that the government's review of Dad's papers and removal of any documents would be contrary to Dad's wishes.

He taught us that the press had a constitutional role to keep an eye on those who govern us. The press was not to be a bulldog or a lapdog, but a watchdog. He used to say that our Founding Fathers understood that government by its nature tends to oppress those it has power over. There is nothing in the Constitution about freedom to practice law; freedom to practice medicine; freedom to become a teacher. But there is something in the Constitution about freedom of the press. He was fond of quoting Thomas Jefferson - who was vilified and abused more by the press than any recent politician: "[W]ere it left to me to decide whether we should have a government without newspapers, or newspapers without government, I should not hesitate a moment to prefer the latter."

For more than a generation, Dad and his mentor, Drew Pearson, were among the most significant journalistic checks in the nation's capital. At a time when members of Congress and even the White House were afraid to take on J. Edgar Hoover, Dad had his staff openly rifle through Hoover's trash to give the former FBI Director a taste of his own medicine.

Dad often said that documents would come across his desk classified as a "national security" secrets, but which really involved what he called "political security" secrets. They showed the misdeeds and manipulations of government employees who had abused the public trust, and then tried to sweep the evidence under the secrecy stamp. Such information should not be hidden from the people.

After all, the government releases "classified" information in its own interest all the time.

Ours is a government of the people. Dad taught us that the people are the sovereigns; those who work in government are our servants. We the people have the right to know what our servants are doing when they act in our name. The

secrecy stamp must not shield the actions of our officials from scrutiny. The press, as the watchdog, must be free to criticize and condemn, to expose and oppose the government.

Finally, concerning the reporter's shield law being considered by this Committee, Dad would have insisted that the First Amendment provides the best shield. He believed that the United States Constitution is a divinely inspired document and that the First Amendment itself was a divinely inspired charter that sanctioned his journalistic mission.

I know that Dad was concerned with protecting his sources. This concern is real. After the recent publicity over Dad's papers, I have been contacted by several of Dad's sources. Some are still in positions where their identification would result in political, financial and even physical harm. The FBI's efforts have underscored the pressing need for protection of journalists, their sources and, in this case, their families.

Again, thank you for this opportunity.