Woodward – Colodny Conversation

11/19/80

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BW: Bob Woodward
LC: Len Colodny

BW: Do you have a moment?

LC: Do I have a moment? You're asking me if I have a moment? I had a moment when I hit Loretta first thing this morning.

BW: Here is the problem we've got. We're diddling our readers, on this thing, and we are, well you saw the story this morning with the uhs and the quotes and so forth, it is reportedly said and so forth.

LC: Well I never authorized that. I never said that could be used. That was strictly on background for you to have and that was the way it was given and that was the way it was suppose to be. I don't know why she did that or why you all agreed to do that. I mean no one asked me to release. What I suggested was a fair suggestion. I asked her to synopsize each of the conversations.

BW: Uh uh (yes)

LC: Just like she'd be reporting a story.

BW: Mm mm (yes)

LC: from notes..

BW: Mm mm (yes)

LC: and that I would look at them and say ok.. That I'm all right.

BW: Yeah.

LC: and it didn't happen that way. That was the agreement we had.

BW: Mm mm (yes)

LC: So now you're telling me cause you broke the agreement, I have this problem..

BW: Well no. What was the agreement? I mean there, there is an agreement uh... You let them listen to those things and take notes from them right?

LC: Whose that?

BW: Pardon?

LC: You mean Loretta?

BW: Yes.

LC: Her only, took notes.

BW: Right. I think David listened to them at one time.

LC: Yeah, the day we were up, I was up in your offices.

BW: Right

LC: ok?

BW: Right

LC: and uh... the agreement was that they were off the record, that the only way I would give it to David after that was that it would never be used unless I released it, and I never released it. The only think that went on the record yesterday was my deposition. Now I'm being put in a position, where, I'm being told because the agreement was broken, now I have to go all the way, and I think that's unfair.

BW: Well, look. I mean. You got to work out with Loretta and David the previous, you know, the agreement for what went in the paper, and if they broke it, um, you know they certainly shouldn't have. I think you might find that there was an ambiguity surrounding all that.

LC: Hey, look. I'm good at this game too ok, and, you know, if they were looking for a loophole they still should've come to me.

BW: Mm mm (yes)

LC: That's the least...

BW: Yeah, well, that's something you got to work, work out with them, and if you can't work it out with them please let me know. The problem I've got is that this stuff appeared in the paper. It obviously comes from some sort of recording. We don't have to say that you were the one to record it, but uh, I mean I have got to say that these conversations were recorded cause we'd really look silly.

LC: Well, that's a problem that you all should have thought of before you printed the story. You're asking me to take the burden for something I shouldn't have to...

BW: Well, I mean we're not going to say that you did the recordings...

LC: No, I just, that isn't the point. I didn't, you know..

BW: I mean Len, we're really in, you know...

LC: I could be prosecuted for a felony, and you're telling me you're in a bad spot.

BW: Now why can you be prosecuted for a felony?

LC: Because that's what it says in the telephone book.

BW: No it doesn't.

LC: Go look in the Maryland telephone book, under intercepting phone calls or whatever the hell it is..

BW: Just a regular phone book?

LC: Yeah, they tell you...

BW: What page?

LC: Well, you want me to get, let me get a phone book and I'll find the page for you. I think its page 18, if I'm not mistaken. I've kind of been there before.

BW: Wiretapping.

LC: Ok, and it tells you in federal law, including a telephone subscriber to wiretap or otherwise intercept a telephone call.

BW: Unless that person is a party to the telephone conversation.

LC: Keep reading, keep reading.

BW: Was first obtained or, first obtained the consent of one of the parties actually participating in the call.

LC: Under Maryland law however..

BW: Unless the person is both a party to the telephone and first obtains the consent, all other parties to that call, that person cannot lawfully intercept the telephone conversation. Properly authorized law enforcement officers can engage in wiretapping without due risk da da da da... The law, the Mellon Law, that has to do, is a tariff law, it is not a felony. It is, it is a...

LC: What does that say?

BW: What?

LC: What does that say under Maryland. The penalty for illegal wiretapping can be imprisonment for...

BW: but, but, it's not illegal wiretapping, it is a tariff violation. I know all of this from Watergate and it, nobody has ever been prosecuted, it's sort of like a ten-dollar fine, it you're convicted...

LC: Hey.

BW: I know the law on it..

LC: Hey Bob?

BW: yeah?

LC: Today I'm publicly saying give me a polygraph test ok? All right? I didn't create the problem that you have, that was created, and I, I don't think...

BW: Yeah, but I'm the editor and I've got the problem in diddling our readers, and I just want to address the issue you cannot be prosecuted for a felony for doing that.

LC: Look, I understand what the problem is.

BW: It is a minor tariff violation and uh..

LC: You're not a lawyer and I'm not a lawyer and what I'm saying is that I really don't feel responsible for the position you're in, but I'm not going to release those transcripts.

BW: Oh, I can understand that, but we have got to tell our readers that there were telephone tapes of these conversations. We're not going to say it's you, the other side, law enforcement authorities, or anybody.

LC: Who the hell else would tape it?

BW: Well, maybe it was wiretapped by the uh.. States attorney?

LC: Why can't you just say extensive notes were taken?

BW: No, it's clearly taped, I mean there..

LC: Yeah, but that was deliberate on your part.

BW: Well

LC: You know The Washington Post deliberately did that.

BW: You know that Loretta is a good reporter and that David's a good reporter and editor. I don't know what your arrangement with them was.

LC: The arrangement was clear.

BW: That's something you can call and bitch with them about on the issue. But we have got to put in the paper that there were tapes of these conversations.

LC: Well, wait a second, I just think that's, that's I...

BW: Len we are diddling our readers, and I cannot let that...

LC: Well then you take that up with them...

BW: Who? Our readers?

LC: No, with your editor and your reporter. Taking it up with me is worthless.

BW: Ok, now let me make an argument for why it's in your benefit to do it this way. Can you listen to that?

LC: Look, let me put it to you this way...

BM: Here is the thing, you are saying one thing these guys are saying another thing, right?

LC: I understand. I'm willing to take a polygraph test cause I'm telling the truth.

BW: Ok, you have not, you have consent tap the Supreme Court, in cases which I will send you if you want, said that a consent tap is perfectly permissible, that's a consent tap. When one of the parties either performed the tapping or had a written consent.

LC: That's federal law, but that's not Maryland law.

BW: But it's a tariff violation, it's like a goddamn parking ticket.

LC: Hey, look, wait, let me ask you something, all right lets get down to something..

BW: And I can get you statements from the Attorney General's office.

LC: Bob, you've got a problem ok, and you want to resolve that problem.

BW: Right!

LC: And I've got a problem

BW: Right!

LC: And I want to resolve my problem ok?

BW: Ok.

LC: And I don't want to do it by telephone, all right? And I don't want to be the final word from my side. Because those tapes were what was at the heart of the god damned phone threats, to us. Now while I agree with David that it wasn't going, it wasn't a question of...

BW: What do you mean phone threats to you?

LC: The first night of telephone threats to my family.

BW: Yeah.

LC: It all centered around the fact that they believed there were tapes.

BW: Well...

LC: All right?

BW: Look, it's to your advantage to get it out, that there are...

LC: Bob.

BW: Because then these guys are forced to tell the truth.

LC: Hey, if they're not forced after what you did to them today, I don't know when they'll ever be force.

BW: They'll be forced tomorrow when we tell them that we, that it is known there are tapes.

LC: Hey, let me tell you something, there's no, I don't see why it has to be tomorrow, and I think that The Post owes me based on the relationship that goes way back.

BW: Yeah.

LC: That to a. produce documentation first that a. it's what you say it is, let my attorney agree that that's what it is, and let my wife hear what you have to say, because it's us that they are going to come after, not The Post.

BW: They're not going to come after you Len. I mean you've got them.

LC: It's easy to say, but this is...

BW: You've always had them by the balls and you've really got them by the balls now. Can I tell you, I'm really convinced that it's to your advantage to get this out. We are not going to pin it on you, we're not going to pin it on anyone, we're just going to say it is known that there are tape recordings of these conversations, and, that will be it.

LC: I understand that.

BW: Sound reasonable?

LC: Well who do you think is going to come after me?

BW: I don't know.

LC: Andy Sauner, come on, Steve Sachs, who the hell are we talking about, these..

BW: Well give them the tapes.

LC: huh?

BW: Give them the tapes.

LC: I don't have them, there are none anymore.

BW: Who has them?

LC: The only thing that anybody has is what The Washington Post has, I don't even know what anybody is talking about. I've turned over my notes to Loretta Tofani. I told her this morning that if I get a subpoena I'm going to send the Grand Jury people right after you.

BW: Well, you know that's, we will deal with that if we have to, but we are diddling our readers.

LC: You're making that my problem Bob. You're making that my problem.

BW: No. I'm just telling you what the problem we've got. Look, there's a good relationship here. Lets not, I mean I want to be fair to you first of all, second to our readers.

LC: All right. Well fair to me would have been calling me and telling me you were going to run that kind of story today.

BW: Well, I, you know again you are going to have to talk to David and Loretta about that.

LC: Don't pass the buck, Bob, come on.

BW: But I didn't, as I understood we had permission to run...

LC: You had no permission to run them, I'm telling you now, I was telling you before, I told her. When I hit her with it, she said something about memory or whatever. I said wait a minute. You know when I, there's a bond of trust and one of the reasons I came up was that, when this story, when they did that Gilchrist profile they used me as a foil in their game, and that was wrong. The truth of all I've been through and my family's been through, you'll never see it in *The Washington Post.* I end up being one of the, look like one of the guys that's mixed up in all the political wheeling and dealing.

BW: No you don't. You look like the honest person who's given a version of events and tomorrow we can print a story saying that there are tape recordings that support that.

LC: I understand, and I think... But you're saying to me we screwed up our agreement and now you're going to have to do it again.

BW: You've got to talk to David and Loretta about that. If they owe you an apology on that, then they should give it to you.

LC: Oh wonderful!

BW: Can you understand the problem I've got? I mean I've got a real strong feeling that goes way to back to protect sources, and that's absolute and you know that. We will just say it is known, we'll hang it on ourselves, but we have got to put that in the paper. We would look silly. Everyone's calling up and saying, "Hey we know what this is."

LC: That's great but it's not my fault.

BW: Well...

LC: And I'm still refusing to release it. You're going to have to release it over my objection.

BW: We virtually did it...

LC: Yeah, you sure, you did it today without ever asking me whether I had an objection.

BW: Well, that you're going to have to talk to Loretta and David about.

LC: Hey, I already..

BW: And if you can't get satisfaction, call me.

LC: Hey, wait a second, when I talked to Loretta... How am I going to get satisfaction? You want to do it, you're their boss, what the hell kind of deal is this? If I can't deal with the top guy, what the hell I'm going to go down and screw with David and Loretta over this for? I called Loretta right away this morning, I said, "Look what you've done to me!"

BW: What did she say?

LC: And I said, "you had no business releasing that" or some words to that effect, and then she said, "I ran those quotes by them from memory." Meaning from memory from what she had written down.

BW: Huh uh. (yes)

LC: What kind of release is that? Because she ran them by these guys and they didn't say they weren't true or whatever?

BW: Huh uh. (yes)

LC: Come on. You know I think fairness works on both sides Bob.

BW: Well I agree.

LC: And it certainly isn't working on mine.

BW: It's just that... Look, we will protect sources, we can't keep information we know to be true out of the paper, do you understand?

LC: But when I gave it to you I was told that that was the basis upon which you'd get it.

BW: Well. You know the horse is out of the barn now.

LC: Yeah, but you let the horse out in contradiction to what the agreement was.

BW: That's what you say, but my reporter says no.

LC: Fine. That's great. Then no matter which argument I make... First of all, I was never told this was going to be done, even bothered to ask, and to say... You are all arguing your own case amongst each other and I'm sitting here powerless.

BW: Well..

LC: Because you're saying..

BW: It's not going to hurt you for us to put this out under our own authority.

LC: Well god damn it, if it's all that simple Bob, why don't you and Marinus come out there, sit with my wife and prove it to her, ok? Cite your tariff law or whatever you've got, because it's going to come as a bombshell to my family. You're talking about toppling an administration over there and you know damn well that's what we're talking about.

BW: Well I don't know. We'll just have to see.

LC: Oh come on. You know the consequences of this whole thing.

BW: I mean you never know...

LC: Huh?

BW: You never can tell. I have got a responsibility that...

LC: Fine.

BW: that we will say that we'll protect our source and we will not ever blow that, but if we know something to be true it's too much of public significance and public interest and we got to put it in the paper. You can only respect that decision I'm sure.

LC: Look, you also, you have to respect two things. One, if I hadn't been the type of person I was, this story would have never happened.

BW: You're going to be fine, you're going to be fine. You've been honest and direct and you're going to be fine.

LC: Yeah, and I'm unemployable.

BW: Pardon?

LC: I'm unemployable to.

BW: Well I don't see how that's the case.

LC: Well I wish you'd try to see the jobs I've tried to get. This has not been a winning issue on which to go out and try to work in the field you know.

BW: Well let's get this out and you'll be the only honest person in Montgomery County.

LC: Wonderful! Terrific! And what about the people that say don't hire a guy like this, look what he does.

BW: Well the horse is really out of the barn, it really is.

LC: Yeah but I didn't let the horse out.

BW: Well, in a way... Look, we can make an agreement which we did. It was my understanding that we could paraphrase and run these things by the other people and if they said "yeah" then that's it..

LC: No. That was never, ever, ever mentioned. Never agreed to, never.

BW: Will you talk to David and to Loretta?

LC: What is it going to prove, you're going to do what you want to do apparently no matter what my wished are.

BW: I mean we've got information here. I will protect sources and go to jail and we'll all sit there in jail if it gets down to this.

LC: Yeah, but they're not going to prosecute you in Maryland for doing this.

BW: Well they might.

LC: Huh?

BW: Well they wouldn't prosecute, they'd try to get information..

LC: You're telling me don't worry, nothing is going to happen ok?

BW: Well we both have to deal with this reality of this horse running around the barn, and it's outside the barn now and you've got to define what it is.

LC: Yeah, but you let it out of the barn. I didn't let it out of the barn. I just gave a deposition and that's all that was on the record. When I gave it to them I said this is for you only and the reason was that if it came down to the time that I needed it, you would have had it, exclusively.

BW: I will always protect... You've got to understand, we will protect the sources. We have got to put the...

LC: It's illegal to tell everyone what happened. Why don't I just go out and call a press conference now and play it for everybody and say here, do what you want to do. I mean that's my alternative at this point.

BW: Well that might not be a bad idea.

LC: Well it's a crazy idea, the whole thing is crazy Bob. What concerns me is, I think you all owe it to my family, not to just call me on the phone and tell me I've got to do it in the morning, but to come out here and sit down with her and explain to her, and to me, what you know legally, what your lawyers say, so that I understand it and so that she understands it.

BW: Uummm, let me get the citations on the law which I will do for you. I think you can trust me on this.

LC: I'm just telling you that other people who have gone through this ordeal...

BW: You call David and Loretta and you get them on this issue of whether they broke their word or not. As I see it now we are going to protect you as I always pledge...

LC: Well what difference will it make?

BW: You know what? We can write that story and it's going to be ambiguous but a lot of people are going to say ah hah, the States Attorney had a wiretap, that's what they're going to say. Any your people on the other side of this thing are going to say "oh my God, they got us," cause it's on tape and it's going to be, it's going to scare the shit out of everyone and you've got... I mean what you've said is true right? What they've said is untrue?

LC: Yeah, but I can do that on a polygraph as well as anything else.

BW: Yeah, but there's nothing like a tape. And we have got our responsibility to our readers on that and we are going to..

LC: But your asking me to argue with the very people who you're going to support, so what's the point of me arguing? I'm a loser every which way.

BC: But you're not going to be a loser on this. I've been through dozens of these things, trust me. We'll be very delicate, we'll be sophisticated with it, we'll help in any way that we can, and let's get this thing out and it'll turn to your advantage because you've been honest and truthful, we know that.

LC: Yes, I understand that...

BW: You and I and David and Loretta are the only ones that are sure of that. Let's tell the world.

LC: Wonderful! But.. You know the last time you told them about me you had me as some sort of a French politician who didn't know what he was doing. That was the last profile you did on me.

BW: Well, lets see. You'll see how it turns out.

LC: Well, look...

BW: Will you trust me?

LC: Bob, I told you I... by this afternoon I may just hold a press conference and say "here folks, just come and get me," if that's, you know...

BW: Ok. Talk to Loretta and David. I hope you understand my position.

LC: Hey, I'm not going to talk to them about it, there's no point in it. It's a useless cause. You want me to talk to the people who work for you and you'll come back and say, "look, I know what the agreement was, they know what the agreement was." Look, I'm not stupid Bob, this is a hardball game and *The Post* is playing the same kind of hardball that everybody else is playing in this.

BW: It's a hardball... Len, it's, it's not a hardball game.

LC: Come on.

BW: It's we have a responsibility to our readers. I will protect sources. If somebody tells me something and they say it's off the record and go around, or we see something and we know that in fact that's true and we're keeping that away from our readers, we can't do that.

LC: Hm mm. (yes)

BW: I mean you'd be the first to condemn us for doing that.

LC: Yes, but there is something you could do.

BW: What?

LC: And you don't have to use the word tape. There's no need for you to.

BW: Yes, we've got to. I mean that's what it is.

LC: But it doesn't exist.

BW: Well, we know it did exist. There's no question about that.

LC: Well, I'm not going to get into a silly argument with David and Loretta. I mean you guys know what you did. I hope somewhere down the line...

BW: Hey, can I tell you something? You're going to come out fine.

LC: Yeah, well, I'll tell you what. I'm going down to your personnel office on Monday. That's where I'm going.

BW: Well, look, we can't do something like that.

LC: Uh, I think you ought to think about that immediately.

BW: You're going to come out looking like the honest guy..

LC: Terrific.

BW: You didn't do anything wrong and uh... Here's what I'm going to do. I'm going to talk to David and Loretta. We're not going to make a decision on this until about, 3:30. Can I get you then?

LC: Yes.

BW: Ok, I'll call you then.

LC: Ok, bye.

BW: Ok, thanks, bye.

END