

# INTELLIGENCE CONTROLS AND THE NATIONAL INTEREST

by

JOHN M. OSETH

**D**espite intense and prolonged public scrutiny of US intelligence agencies in the 1970s and ensuing restrictive reforms, debate has continued about the controls governing intelligence operations. Even the most knowledgeable intelligence professionals disagree sharply on the questions of what US intelligence agencies should and should not be directed to do.<sup>1</sup> The issue is an emotional one, and when it was resurrected early in the Reagan Administration, contending perspectives were once again energized both inside and outside of government.<sup>2</sup>

At issue is the extent to which the operational activities of US intelligence agencies should be regulated and, ultimately, confined. Seen broadly, intelligence operations serve the nation in several important ways. First, and most fundamentally, the intelligence agencies collect information by both secret and open means and inform national decisionmakers about events abroad, from strategic warning signs to long-term trends affecting American interests. They also provide the means, through covert operations, to implement certain policy decisions and to influence persons or events abroad to further American policy goals. And, finally, through counterintelligence activities, they protect the decisionmaking process and the national security apparatus from foreign espionage, sabotage, and terrorism.

In the last few years a number of substantive and procedural constraints were imposed on intelligence operations, and many

observers believe that those constraints now amount to a dangerous national disability. Others, however, remember the last decade's widely publicized allegations of operational excesses, and they fear the unleashing of capabilities that can threaten domestic liberties and undermine America's moral posture in the world.

I argue here that this debate continues not because these viewpoints are irreconcilable, but because of a failure to identify the most fundamental issues, to frame those issues for analysis, and to suggest how diverging viewpoints might be harmonized as a matter of explicit public policy.

Indeed, to the policymaker, the last decade's discourse on intelligence issues may appear to resemble nothing so much as a verbal battleground of nearly hopeless disorder. Yet here, as elsewhere, the leader's task is to look out on that apparent disorder and find its underlying coherence.

## THE PROBLEM

For many Americans, the last decade was a time of individual and collective examination of conscience about their government's behavior at home and abroad. In foreign affairs, the US experience in Vietnam occasioned the most searching and painful national introspection, and from that reflective effort new sensitivities emerged concerning limits and standards for using national power. At home, the Watergate investigation exposed abuses of power at the seat of government. And just when these

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themes seemed to converge in public consciousness, spectacular revelations and allegations were made concerning the domestic and international activities of US intelligence agencies.

Though much of this early reporting was polemical and ill-informed, it riveted public attention on exotic and arguably unconscionable activities allegedly undertaken by US intelligence agencies. Americans were told that Central Intelligence Agency covert action may have helped intensify the social and political turmoil in Chile that led to the death of Salvador Allende.<sup>3</sup> They also read reports of American spying that seemed difficult to justify in terms of any relationship it might have had to defense against foreign enemies (e.g., spying on US negotiations with Micronesia<sup>4</sup>). Further, they were told that such operations could violate the law at home, intrude on civil liberties, and invade their most important civil institutions, including the press and academia.<sup>5</sup>

Before long, proposals for reform were set before the Congress, the courts, and the leadership of the executive branch. These pressures focused on two questions that would drive rule-making efforts in all forums for the next several years. The first dealt with limitations on government power: What kinds of controls or restraints ought to be placed on intelligence activities? The second involved the distribution of government power: How should the various controls be administered, and which government institutions ought to participate in making decisions about intelligence operations?

Reacting to rising public concern, both the Senate and the House of Representatives began extended inquiries into the allegations of wrongdoing. For more than a year in 1975-76 the investigations generated widespread publicity and momentum for reform. A parallel investigation headed by Vice President Rockefeller had similar effect. The deeper these inquiries probed, the more difficult and serious the problems seemed to be. Disclosures multiplied, and reform efforts gained impetus. There were demands for self-regulation within the executive branch, and Presidents Ford and Carter each

issued detailed executive orders instituting operational constraints.<sup>6</sup> There was, additionally, a major effort in the Congress to produce a legislated charter dictating operational limitations.<sup>7</sup> Further, lawsuits challenging intelligence and investigative activities proliferated, as citizens took it upon themselves to seek restrictions and redress for suspected abuses.<sup>8</sup>

By 1978, the reforms instituted by executive order, together with newly established policies concerning the role to be played by congressional oversight committees and by others in the Congress,<sup>9</sup> had satisfied much of the pressure for official action. But international events in late 1979, especially in Iran and Afghanistan, prompted many Americans to challenge the controls, coordination policies, and operational constraints so recently imposed. Eventually, their efforts in Congress defeated the charter proposal, and legislators soon went to work on counterreform measures, such as reduction in the number of congressional committees charged with intelligence oversight duties, punishment of persons who leak secrets or help uncover the identities of intelligence operatives, and protection of intelligence files from disclosure.<sup>10</sup> Outside the Congress, prolonged and acrimonious disputes in the courts fell short of resolving the most critical

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operational issues, distracted by infighting on such secondary matters as the extent to which government files were to be opened to complainants and the public.<sup>11</sup> In the executive branch, the Reagan Administration quickly went to work on its own set of intelligence rules, showing early concern for improvement of operational capabilities.<sup>12</sup>

This more recent activity has clearly pushed difficult issues toward resolution. Yet it has focused on isolated and fragmented corrective proposals, not on larger questions concerning national purposes and expectations. Indeed, just when our policy-making institutions seemed at last to be groping toward the crux of the matter, the effort lost momentum and dissolved into smaller concerns about rules and about operational practices that some argued ought to be liberated from rules.

Over the last decade those engaged in the debate have outgrown their sensationalist fixations and entered into reasoned discussion. Important issues have been tackled, but the most significant challenge has yet to be faced and still awaits resolution. Essentially, that challenge is to make operational rules that reflect some underlying consensus about the national purposes—about goals and values—to be served by US intelligence operations. In the absence of an explicit and abiding set of understandings about intelligence, one can expect more swings of the pendulum in operational policy, a sphere too important to be consigned to that fate.

#### **NATIONAL SECURITY AS A FOCAL POINT**

For many, the most important considerations in the intelligence debate collect around some notion of “national security.” Some, indeed, would insist that there can be no other test of the intelligence community’s value and performance and no other frame of reference for proposed rule making than service to the nation’s security needs. But two major impediments considerably reduce the utility of this central value concept as a guide

for policymaking and as a point of argumentation.

First, and most generally, the national security perspective tends to posit a world view that many concerned observers do not accept. It tends, as the phrase “national security” itself indicates, to see the world in terms of threats to America and, by extension, to American national interests in the world at large.<sup>13</sup> The world is understood to be fundamentally competitive, if not always threatening, and events worldwide are perceived and evaluated in terms of their pertinence to the defense of American interests.

Though few would disagree with the proposition that American society ought to be in some sense secure, not everyone sees and understands the world solely in that light. Nor is there agreement in any given case on what the demands of security really are. Inevitably this divergence in fundamental outlook produces contrasting approaches on issues concerning the appropriate function of intelligence operations. Those, for instance, who do not view the world as naturally hostile or threatening, or who believe that international harmony will emerge if our institutions and practices will only permit it, are unlikely to be persuaded of the need for intelligence capabilities that include covert action and therefore might be perceived elsewhere as antagonistic. On the other hand, those who view the motivating force of international behavior to be the concerted pursuit of national self-interest will be reluctant to cast aside any tool of foreign policy capable of influencing events abroad.

But even when all participants in the debate can agree on the general characteristics of the external environment, disagreement is likely to surface on the nature of specific threats and on their implications for America. If, for instance, one believes that America’s most challenging military competitor, the Soviet Union, is an expansionist power bent on world domination, he is likely to resist all attempts to restrict significantly the capabilities entrusted to the intelligence community. But if he is not so

convinced of the nature of the threat, the issue of intelligence capabilities might not seem so important.

To the extent that the intelligence debate fails to recognize and reach this deeper and more basic conflict of perspectives, it is likely to be a prolonged and, for many, a pointless rhetorical exercise. Disparate underlying views of the world will remain implicit, probably unchallenged, and certainly unreconciled. Arguments for reform and counterreform will therefore be advanced without any possibility of communication, much less of persuasion. "National security" arguments may fail, in summary, because of a failure to explain why certain capabilities must be considered vital to America.

The second difficulty with exclusive focus on national security as the *raison d'être* for US intelligence activities is that the concept simply does not encompass all the core values that concern many observers. As a technique of argumentation, then, recitation of a national security rationale has been neither as instructive nor as persuasive as many would hope, for it fails to deal with policy perspectives that resist submersion in any larger concept of the national interest.<sup>14</sup> While the national security perspective defends governmental powers, other interests seek to limit them. Unless we understand those competing claims, we cannot discover and deal with the most fundamental issues in the debate.

#### PROTECTING CITIZENS FROM INTRUSIVE GOVERNMENT

Intelligence operations also raise issues that are framed in terms of the constitutional guarantees of individual freedoms. Protection of limitations on governmental power and prerogative is a constant concern to many whose primary interests lie in the preservation of civil liberties. For these attentive observers, intelligence operations can threaten to breach those limitations.<sup>15</sup> The litany of abuses—mail openings, domestic political surveillances, wiretaps, break-ins—only deepens their concern.

Though fearful of governmental interference or intrusion, civil libertarians do not necessarily demand cessation of all potentially worrisome operations. They, too, have interests in making the nation secure.<sup>16</sup> But they do argue for operational rules which recognize and protect individual rights and freedoms. From their viewpoint, an overarching purpose of government is to preserve and protect a free society, not to subvert it in the name of defense against assumed or vaguely defined external threats. Like the Founding Fathers, these critics are suspicious of governmental power regardless of its rationale.<sup>17</sup> Because government can be venal and misguided, they argue, all of its instruments must be carefully and clearly constrained.

These concerns have surfaced repeatedly in various policymaking forums. As a result, the ill-fated charter proposal in Congress contained detailed restrictions on intelligence techniques. And in the late 1970s, when prospects for action in the Congress seemed more and more remote, increasing numbers of citizens took their grievances to the courts. Often they sought large sums of money to compensate for damages from alleged violations of constitutional rights by government officials. For some, the judicial process provided a receptive forum. One 1974 case, for instance, challenged operations allegedly conducted by Army intelligence units in Europe against American civilians suspected of subversive activities there, such as inducement of desertions. In 1976 the trial court ruled that those operations had to be justified in terms of domestic standards established by the Fourth Amendment, despite the national security rationales offered to support them.<sup>18</sup> In 1980, when the case was finally settled out of court, the settlement incorporated rules about so-called "intrusive" investigative techniques. That court record now stands as a vivid reminder of the power of the civil libertarians' perspective. Moreover, the surge of courtroom activity in general indicates that citing national security as a rationale for operations either at home or abroad will not shield in-

telligence agencies from claims having constitutional protections as their basis.

Though they decry the resultant chilling of operational initiative, the intelligence agencies have indeed attempted to accommodate these criticisms by adjusting internal regulations and practices. Furthermore, in Executive Order 11905, issued by President Ford in 1976, operational oversight was explicitly raised to the level of the White House. Provisions of that order established:

- An Operations Advisory Group, composed of high-level government officials, to advise the President on covert action proposals and on particularly sensitive collection operations.

- An Intelligence Oversight Board, composed of presidential appointees from outside the government, to monitor operational procedures and practices, and to report to the Attorney General and President on any that raise questions of legality or propriety.

- Specific operational restrictions, particularly for activities affecting US citizens (and a somewhat broader category of individuals known as "US persons").

The executive order was clearly intended to be the open public charter then demanded by many—a document that outlined operational prohibitions and specified the locus of operational control. Critics noted immediately, however, that several restrictions amounted only to prohibition of what was already against the law.<sup>19</sup> For those who had been displeased with activities permissible under the law, the order provided little comfort.

President Carter was similarly concerned about civil liberties. In his Executive Order 12036, issued in 1978, he transferred the responsibilities of the Operations Advisory Group to the National Security Council, continued the Intelligence Oversight Board, and announced further detailed operational prohibitions and restrictions. That executive order also gave the Attorney General a larger role in intelligence oversight, a development regarded by some as its most significant contribution.

Still, concerns linger in the minds of many civil libertarians. The challenge—and the opportunity—for those who make policy is to incorporate those concerns into an explicit synthesis of societal values and national goals.

### **A THIRD VALUE: AMERICAN IDEALS**

Other critics have argued that traditional American norms of justice and fair play must govern all US foreign relations.<sup>20</sup> Not surprisingly, the covert action capability draws most of their concern, often transforming latent suspicions about government into explicit distress over the prospect of American meddling in foreign societies. America's international interests are not served, they argue, by manipulation of persons or events abroad.<sup>21</sup> They see covert action as a device fundamentally at odds with traditional American ideals and hold that it should therefore be prohibited.

Others, not so absolutist in conviction, but persuaded that America's reputation and ideals are indeed important political assets, argue on a more practical level for controls that will guard against unnecessary or counterproductive operations.<sup>22</sup> They recognize the need to retain covert action, but also the need to restrain and control it.

Although some commentators criticize operational limitations that are based on general ethical codes,<sup>23</sup> various rules now in force within the intelligence community have just such a foundation. They are concrete responses to public expressions of concern. The Ford and Carter executive orders prohibited political assassination, one of the most extreme and most condemned of possible covert operations.<sup>24</sup> More generally, the elevation of covert action approval authority to the presidential level and the specification of supervisory responsibilities in the National Security Council<sup>25</sup> ensured that broader perspectives than the narrowly operational view would govern such activities. In the Carter Administration, moreover, the President himself gave early

guidance on value-based controls. His Director of Central Intelligence, Stansfield Turner, noted in his confirmation hearings that the President insisted on intelligence agency conformance with the law and with American values.<sup>26</sup>

Even so, the issue of executive branch control over covert action remains a live one.<sup>27</sup> In the first place, not everyone agrees that executive self-regulation *can* provide adequate control. It results, some say, in constraints that can be changed by executive fiat and that may reflect expansive interpretation of the operational discretion permitted by law and notions of morality. For many, it lacks the reassuring constancy and the underpinning of legitimacy that accompany the lawmaking process in Congress.

Not everyone, furthermore, agrees that decisions about intelligence operations should be left to the President or to his most senior advisors in the White House or executive branch. Many, in fact, now view the intelligence problem as part and parcel of an ongoing institutional struggle within the national government over control of foreign affairs. From that standpoint, the relevant issues are framed quite differently, involving not simply questions of the limitation of government power, but questions of its *distribution*. These issues touch upon yet another major concept underlying the intelligence debate in any forum: the Constitution's design of shared and balanced governmental power.

#### ADHERENCE TO CONSTITUTIONAL DESIGN

The struggle over control of foreign policy is an old one in America, quite familiar to those who have studied the constitutional blueprint (or, more appropriately, the lack of a constitutional blueprint) for the conduct of US foreign affairs. The problem, briefly stated, is that the formulas for distribution of functions and responsibilities within the national government—"separation of powers" and "checks and balances"—found no

comprehensive expression in the Constitution's treatment of foreign affairs. The Constitution is silent on many important issues of power distribution, and where lines of demarcation do exist between the branches of government, powers are "not so much 'separated' as fissured, along jagged lines indifferent to classical categories of government power."<sup>28</sup> As laws, procedures, and practices have evolved, some foreign affairs authority now clearly belongs to the President and some clearly belongs to the Congress. But much is combined, too, in anticipation of collaborative activity, and many issues have yet to be resolved.

In this context of irregular and often disputable division of authority—and much occasion for challengeable *assertion* of authority—where does the intelligence community belong? Who owns it, and who should control it, and how?

Throughout World War II and the Cold War years, the intelligence community and its aggregate capabilities were, essentially, tools of presidential prerogative. In World War II, the Office of Strategic Services, forerunner of the CIA, operated as one of the many war-fighting instruments at the disposal of the President as Commander-in-Chief.<sup>29</sup> Later, in peacetime, the intelligence agencies remained securely within the President's domain, operating secretly in the foreign-affairs "silences" of the Constitution. Critics of presidential prerogative can trace this development from Truman to Nixon. The Eisenhower Administration, for example, launched a number of significant covert operations abroad, including CIA assistance in toppling governments in Iran (1953) and Guatemala (1954), a failed attempt to do the same in Indonesia (1958), successful efforts in helping to install regimes in Egypt (1954) and Laos (1959), and preparation for the expedition which ultimately became known as the Bay of Pigs invasion (1960-61).<sup>30</sup> Similar observations have been made regarding the Johnson and Nixon presidencies,<sup>31</sup> and former Under Secretary of State George Ball succinctly commented upon this issue by characterizing the domestic and foreign

capabilities of the intelligence community as an "enormous temptation" to the President.<sup>32</sup>

But the problem became more than one of unilateral control of covert action. It also involved control of a vast array of information-gathering capabilities—a presidential monopoly which conferred a significant advantage in the competition for management of US foreign relations. Critics have treated this advantage as a crucial one, tipping the intragovernmental balance of foreign-affairs power toward the executive.<sup>33</sup>

As concern about presidential prerogative grew both within and outside of government, Congress became more active and aggressive in a number of foreign affairs arenas. Oversight of intelligence operations and regular access to information generated by those operations became prominent institutional goals.<sup>34</sup>

By the mid-1970s, the Senate select committee investigating alleged intelligence abuses identified three main departures from its concept of the Constitution's design:<sup>35</sup>

- *Excessive Unilateral Presidential Power.* For too long, the committee believed, Congress, the courts, the press, and the public at large had left the business of controlling intelligence activities solely to presidential discretion. Presidential power had accordingly expanded to unconstitutional proportions.

- *Excessive Secrecy.* The committee believed that the shield of secrecy had unnecessarily inhibited outside scrutiny of intelligence programs and practices. To restore the constitutional plan of balanced power, secrecy as a means of protecting the sanctuary of presidential prerogative had to be severely curtailed. The problem was not seen as one of publicizing intelligence operations, but of establishing arrangements for outside supervision.

- *Avoidance of the Rule of Law.* Intelligence operations had often been insulated by national-security rationales from restraints derived from the Bill of Rights and from specific prohibitions applicable to other government activities (such as law enforcement). This insulation may have con-

tributed, the committee concluded, to a belief that the intelligence community was above the law as well as beyond the reach of other governmental institutions.

The committee's policy recommendation, then, was to increase congressional participation in the control and direction of intelligence operations. The much-discussed requirement in the 1974 Hughes-Ryan Amendment that congressional committees be notified of covert operations,<sup>36</sup> the oversight routines thereafter worked out informally between the Congress and the intelligence agencies, and the effort to produce a statutory charter all derived from that basic perspective.

Today, the various modes of interaction between Congress and the intelligence agencies may well constitute sufficient collaborative activity to satisfy critics of presidential prerogative. But some observers will be interested in assessing the sufficiency of those coordination routines over time. The stance taken by those observers in further intelligence inquiries will reflect a central and enduring concern—adherence to constitutional design—which they will expect others to respect and accommodate.

## FUTURE PROSPECTS

In the last decade's public inquiry into intelligence activities, Americans struggled with a major national policymaking challenge. That struggle was not simply a contest about rules, though that has been its most visible manifestation. It was fundamentally a contest of value-laden perspectives, too often unarticulated and therefore unreconciled. Further, in dispute were not simply intelligence issues, but larger problems of limiting and distributing governmental power.

Reconciliation of the contending perspectives may be well beyond present policymaking capability. James MacGregor Burns has argued that institution-bound policymakers tend naturally to fragment issues to make them easier to resolve.<sup>37</sup> They concentrate on methods and mechanisms—the "how" questions—rather than on broad

ends and purposes—the “why” questions. This, indeed, seems to have been the history of the intelligence debate.

As a result, there is still no unified, clear vision of intelligence purposes, nor a framework of intelligence theory which can both broaden and integrate popular thinking on intelligence issues.<sup>38</sup> What the intelligence community needs is an operational manifesto, a comprehensive formulation of principles outlining both expectations for operational contributions and standards of operational behavior. That framework must integrate the demands and special conditions of the two arenas in which intelligence agencies operate, the international and the national. Whether current policy efforts can produce such a statement of principles, however, seems problematical.

Nevertheless, there may be other ways to address the problem productively. One may be to seek a change of venue—to attempt to reconvene the intelligence debate in dispassionate, nongovernmental forums where views can contend undistracted and unobstructed, and where contending visions of national purposes might be reconciled over the long term. In this respect, the concerted discussion of these matters in academic forums holds much promise of national service. Though a few academics understood this long ago,<sup>39</sup> only recently have there been focused attempts to engage scholarly perspectives and talents on these issues. Perhaps the most influential of these to date has been the National Strategy Information Center's Consortium for the Study of Intelligence, one result of which is a series of book-length studies.<sup>40</sup> The challenge is formidable, however, and academic analyses have not yet provided any uniquely perceptive statement of intelligence issues. Nor have they proposed any overarching framework of concepts to guide policymaking. Yet their considerable potential remains as a largely untapped national asset.

A second approach would be to reinvigorate the effort in Congress to produce a statutory charter. Such an undertaking would, of course, return our attention to a largely failed (or certainly sputtering) en-

terprise, but that is no argument against renewing the effort. The charter foundered because the development of a consensus about intelligence operations proved difficult and time-consuming. That outcome surprised no one who understood the magnitude of the task<sup>41</sup>—to agree on an operational rationale which serves security interests but does not swallow up citizens' rights, standards of decent behavior, or constitutional principles of balanced power and limited government. Everyone involved, most especially the intelligence agencies, would benefit from the regulatory clarity and constancy, and the undergirding of legitimacy, that could result from a statutory charter announcing national intelligence expectations, missions, authorizations, and restrictions.

Whatever the channels ultimately chosen for addressing the challenge, one thing seems certain: The stakes are too high for the effort to dissolve into unproductive vacillation over particular rules. Americans need, as a nation, to address and resolve the problems underlying the establishment of national directions. This formidable challenge cannot be resolved by inattention; it will, sooner or later, rise up to confront the republic again.

#### NOTES

1. Contrast, for instance, the views of Ray S. Cline, former CIA Director of Intelligence, in “Rebuilding American Intelligence,” *The New York Times*, 20 December 1979, p. A27, with those of E. Drexel Godfrey, former CIA Director of Current Intelligence, in *The New York Times*, 6 February 1980, p. A26 (letter to the editor). See also Ray S. Cline, “The Future of U.S. Foreign Intelligence Operations,” in *The United States in the 1980s*, ed. Peter Duignan and Alvin Rabushka (Stanford, Calif.: Hoover Institution on War, Revolution, and Peace, 1980), p. 469; and E. Drexel Godfrey, “Ethics and Intelligence,” *Foreign Affairs*, 56 (April 1978), 624.

2. See, for example, Robert Pear, “Intelligence Groups Seek Power to Gain Data on U.S. Citizens,” *The New York Times*, 10 March 1981, p. A1; Charles Mohr, “CIA Aide Clarifies Stand on Restraint,” *The New York Times*, 12 March 1981, p. A17; Judith Miller, “Administration Studying New Plan On Bolstering Intelligence Agencies,” *The New York Times*, 21 May 1981, p. A1; and Morton H. Halperin, “How Reagan Can Improve the Intelligence Product,” *The Washington Post*, 5 February 1981, p. A19.

3. See Victor Marchetti and John D. Marks, *The CIA and the Cult of Intelligence* (New York: Knopf, 1974), pp. 14-20. See also the discussion in Henry Kissinger, *White House Years* (Boston and Toronto: Little, Brown, 1979), pp. 658-83.

4. “Bugging the Micronesians,” *The Washington Post*, 14 December 1976, p. A18.

5. See the 1976 discussion of these points in US

Congress, Senate, Select Committee to Study Governmental Operations With Respect to Intelligence Activities, Report No. 94-755, Book I, *Foreign and Military Intelligence*, 94th Cong., 2d Sess., 1976, pp. 451-56. (Report 94-755 cited hereinafter as *Final Report*).

6. US President, Executive Order 11905, "United States Foreign Intelligence Activities," *Federal Register*, 41, No. 34, 19 February 1976, 7701; and US President, Executive Order 12036, "United States Intelligence Activities," *Federal Register*, 43, No. 18, 26 January 1978, 3874.

7. The text of the charter, as introduced in 1978, is reprinted in US Congress, *Congressional Record*, 95th Cong., 2d Sess., 10 February 1978, 124, No. 16, E533-E564.

8. According to one count, by May 1977 there were 143 lawsuits pending which alleged improper surveillance or investigative harassment—with a total of \$1 billion in damages claimed for violation of constitutional rights. *The Washington Star*, 22 May 1977, p. A14.

9. An early description of these collaborative routines appears in the Senate Intelligence Committee's first annual report (US Congress, Senate, Select Committee on Intelligence, Report No. 95-217, 95th Cong., 1st Sess., 18 May 1977).

10. These issues are discussed in *Congressional Quarterly Weekly Report* analyses by John Felton (23 February 1980, p. 537) and Pat Towell (26 January 1980, p. 174). See also Tom Wicker, "The CIA Triumphant," *The New York Times*, 6 May 1980, p. A27; Paul Bracken and Martin Shubik, "Leaking Strength," *The New York Times*, 5 February 1981, p. A23; and Charles Mohr, "Disclosing Intelligence Agents' Names," *The New York Times*, 6 February 1981, p. A10.

11. For many, the opening of these files was itself a substantial achievement. See "That 38-Year Investigation," *The Washington Post*, 27 September 1976, p. A26.

12. Judith Miller, "Reagan Urged to Reorganize U.S. Intelligence," *The New York Times*, 8 December 1980, p. A1.

13. See, for example, the defense of covert action operations in George W. Ball, *Diplomacy for a Crowded World* (Boston and Toronto: Little, Brown, 1976), pp. 219-20; and Kissinger, pp. 658-59.

14. See, for example, James MacGregor Burns, *Leadership* (New York: Harper and Row, 1978), p. 432: "The only value, I believe, that might be elevated over liberty is security, but security would decline in desirability if it guaranteed only survival and not the values such as liberty that make life worth living."

15. This perspective is a basic premise of *Final Report*, Book II, *Intelligence Activities and the Rights of Americans*. See also Morton H. Halperin, "National Security and Civil Liberties," *Foreign Policy*, 21 (Winter 1975-76), 125; and John H. F. Shattuck, *Rights of Privacy* (Skokie, Ill.: National Textbook, 1977), pp. 69-70.

16. Halperin, "National Security and Civil Liberties," pp. 129-30.

17. The *Final Report* asserts, "The natural tendency of Government is toward abuse of power" (Book II, p. 291).

18. Berlin Democratic Club, et al., v. Schlesinger, 410 F. Supp. 144 (1976). The case was civil action No. 74-310 in the US District Court for the District of Columbia.

19. Robert L. Borosage, "The Tyranny of Intelligence: Ford's Blueprint for Arrogance," *The Nation*, 13 March 1976, p. 296. Physical and electronic surveillance, for example, were prohibited unless they were lawful.

20. *Final Report*, Book II, p. 1.

21. For an overview of these arguments see Harry Rositzke, "America's Secret Operations: A Perspective," *Foreign Affairs*, 53 (January 1975), 334; Herbert Scoville Jr., "Is Espionage Necessary For Our Security?" *Foreign Affairs*, 54 (April 1976), 482; and Godfrey, "Ethics and Intelligence," p. 624.

22. Roger Hilsman, for instance, was an early advocate of controls which would treat covert action as a tool of last resort. See *To Move a Nation* (Garden City, NY: Doubleday, 1967), pp. 86-87.

23. See Ernest Lefever, "Can Covert Action Be Just?" *Policy Review*, 12 (Spring 1980), 115.

24. Executive Order 12036, section 2-305.

25. *Ibid.*, sections 1-302, 1-808, and 4-212.

26. US Congress, Senate, Select Committee on Intelligence, *Hearings on the Nomination of Admiral Stansfield Turner to be Director of Central Intelligence*, 95th Cong., 1st Sess., 22 and 23 February 1977, p. 4.

27. See, for example, Emmanuel Adler, "Executive Command and Control in Foreign Policy: the CIA's Covert Operations," *Orbis*, 23 (Fall 1979), 671.

28. Louis Henkin, *Foreign Affairs and the Constitution* (New York: Foundation Press, 1972), p. 32.

29. The wartime ethos and legacy is described in R. Harris Smith, *OSS: The Secret History of America's First Central Intelligence Agency* (New York: Dell, 1972), pp. 361-65.

30. Arthur Schlesinger Jr., *The Imperial Presidency* (New York: Popular Library, 1973), p. 167. Allen Dulles also discussed these activities in *The Craft of Intelligence* (New York: Harper and Row, 1963), pp. 221-25.

31. See, for example, Christopher Andrew, "Whitehall, Washington, and the Intelligence Services," *International Affairs*, 53 (July 1977), 394.

32. George W. Ball, *Diplomacy For a Crowded World: An American Foreign Policy* (Boston: Little, Brown, 1976), p. 228.

33. See Schlesinger, *The Imperial Presidency*, p. 166.

34. US Congress, House of Representatives, Committee on International Relations, *Congress and Foreign Policy—1976*, Committee Print (Washington: GPO, 1977), pp. 220-21. See also the discussion in Lee H. Hamilton and Michael H. Van Dusen, "Making Separation of Powers Work," *Foreign Affairs*, 57 (Fall 1978), 17; and Douglas J. Bennet Jr., "Congress in Foreign Policy: Who Needs It?" *Foreign Policy*, 57 (Fall 1978), 40.

35. *Final Report*, Book II, p. 292.

36. The poles of discussion on this issue are outlined in "Bill Would Require Notification of CIA Undercover Operations," *The Washington Post*, 27 June 1980, p. A4.

37. Burns, p. 405.

38. Harry Howe Ransom believes that the absence of a "theory of intelligence" is a major threshold difficulty in foreign policy scholarship. See "Being Intelligent About Secret Intelligence Agencies," *American Political Science Review*, 74 (March 1980), 141, 146-48.

39. See, for example, Harry Howe Ransom, "Congress and the Intelligence Agencies," in *Congress Against the President*, ed. Harvey C. Mansfield (Montpelier, Vt.: Capital City Press, 1975), p. 175.

40. At this writing the consortium has published three of an intended series of five studies on intelligence, all edited by Roy Godson: *Intelligence Requirements for the 1980's: Elements of Intelligence* (Washington: National Strategy Information Center, 1979); *Intelligence Requirements for the 1980's: Analysis and Estimates* (Washington: National Strategy Information Center, 1980); and *Intelligence Requirements for the 1980's: Counterintelligence* (Washington: National Strategy Information Center, 1980).

41. See, for example, the discussion by Alan Berlow in "Intelligence Charter Debate to Focus on Civil Liberties, National Security Conflicts," *Congressional Quarterly Weekly Report*, 23 December 1978, pp. 3471-72.