Congressional Supervision of America’s Secret Agencies: The Experience and Legacy of the Church Committee

In 1947, the United States created a modern intelligence community to guard against another surprise attack like the one at Pearl Harbor. This community consists of 13 major agencies, among them the CIA and the FBI. Concealed from public view, they pose a significant challenge to the concept of government accountability in a democratic society. This article examines the failure of congressional lawmakers to hold the secret agencies accountable during the Cold War. Contrary to recent theoretical research on legislative oversight, which suggests reasons that accountability has been strong in the United States, this study finds that a weak system of legislative review has permitted a dangerous erosion of civil liberties. The study also explores the efforts of the Church Committee in 1975 to fashion new safeguards that would reduce the probability of further abuse of power by the intelligence community.

For the purposes of gathering and interpreting information from around the world, the United States created 13 major agencies during the Cold War, known collectively as the “intelligence community” and led by a director of central intelligence (DCI). Seven of the agencies have a predominantly military mission and are within the jurisdiction of the Defense Department (among them, the National Security Agency, which gathers signals intelligence); five are associated with civilian departments, such as the Federal Bureau of Investigation (FBI) within the Justice Department; and one, the Central Intelligence Agency (CIA), stands alone as an independent entity that is answerable directly to the president (Lowenthal 1992; Richelson 1999). Together, these agencies comprise the largest cluster of information-gathering organizations in American history, and they are rivaled in world history only by the intelligence apparatus of the Soviet Union during the Cold War and Russia today.

Concealed from public scrutiny, America’s intelligence agencies pose a major challenge to the idea of government accountability in a democratic society (Ransom 1970, 1975; Johnson 1985). This essay examines the failure of legislative supervisors to hold the intelligence community in check during the Cold War, leading to a significant erosion of civil liberties in the United States. It also explores the prerequisites that are necessary to lessen the probability of further abuse of power by the secret agencies.

A Conceptual Framework

There is an extensive literature on the subject of congressional control over administrative agencies, commonly referred to as legislative oversight (Aberbach 1990; Ogul 1976; Scher 1963). As Spence notes (1997), positive theorists and quantitative empiricists have pointed to lawmakers’ capacity to shape the environment of agency decision making so as to align bureaucrats with the goals of oversight committees on Capitol Hill. For instance, Calvert, McCubbins, and Weingast (1989) and McCubbins et al. (1989) both maintain that executive agencies are essentially hard-wired at their statutory inception to honor legislators’ intentions (ex ante control). Moreover, they posit,
lawmakers have potent sanctions that may be used to punish rogue bureaucratic behavior, notably the power of the purse to reduce funding for recalcitrant agencies (ex post control).

Theorists emphasize that organized interest groups provide an added safeguard to assist lawmakers in thwarting errant bureaucrats who fail to uphold original legislative mandates. Lobbyists set off fire alarms to alert members of Congress when agencies have violated the expected norms (McCubbins and Schwartz 1984); media outlets reporting on agency activities can serve a similar function. Moreover, lawmakers and their staff can engage in “police patrolling,” that is, a more active and direct monitoring of agency activities through persistent hearings and less formal dialogues with agency personnel.

Yet, in contrast to these rosette theories on the efficacy of legislative oversight, a more extensive body of research spanning four decades of scholarly reporting offers quite a different impression. From this point of view, lawmakers have engaged in oversight only sporadically and halfheartedly (Bibby 1968; Ransom 1970, 1977; Dodd and Schott 1979, 170–84; Johnson 1994). This failure of accountability has stemmed chiefly from a lack of motivation among members of Congress to immerse themselves in oversight activities, such as hearings and detailed budget reviews. For lawmakers, greater political advantage lies in the passage of legislation, where credit claiming—vital to reelection—is more visible to constituents (Mayhew 1986).

Further, representatives have often been reluctant to become involved in (and thus, responsible for) controversial agency decisions; better to keep a distance from potential trouble (Walden 1970). Information asymmetries have contributed as well to the failure of oversight, giving agencies room to maneuver as lawmakers remain unaware of informal rules, internal memoranda, and private deals struck inside the vast domains of the executive departments (Spence 1997, 200).

The Special Case of Intelligence

With respect to the intelligence agencies, the limited relevance of the safeguards heralded by the positivists and quantitative empiricists is manifest. In the first place, the statutory rules established for the secret agencies by the National Security Act of 1947 (50 U.S.C. 401) are broadly worded and often ambiguous. In one clause, for instance, this statute grants the CIA the authority to “perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct”—not exactly a tight legislative leash.

As for the appointment power, it is true that lawmakers have closely examined the credentials of some DCI nominees, rejecting a handful over the years in hotly debated hearings (as with the donnybrook over the failed nomination of Anthony Lake during the Clinton administration). Yet, the Office of the Director of Central Intelligence is notoriously weak. The DCI is the head of the CIA, but exercises only marginal control over the dozen other agencies in the community. Their separate chiefs have extensive discretionary authority and are seldom subject to the kind of legislative scrutiny directed toward DCI nominees (Johnson 2000).

Fire alarms set off by lobbyists or by media reporters are unreliable, too. Few interest groups exist in this policy domain, and those that do (the Boeing Corporation, for instance, which manufactures surveillance satellites) are rarely able to discuss their grievances in public, given the classified nature of their work. And as Dana Priest (2003), the Washington Post’s correspondent with an intelligence beat, has remarked, the “high walls” of the intelligence agencies make it very difficult to report on intelligence activities. These walls are important to protect the nation’s secret agencies from foreign spies; however, they also have the effect of isolating the intelligence agencies from the normal processes of legislative accountability envisioned in the Constitution (Article I), the Federalist Papers (No. 51, for instance), and various Supreme Court opinions (among the most famous, Justice Brandeis’s comments in Myers v. U.S., 272 U.S. 52 [1926]).

Police patrolling by Congress itself has been minimal, resulting from the lack of motivation by lawmakers in all policy domains alluded to earlier. With respect to intelligence, members of Congress made it clear during the early stages of the Cold War that they were content to rely on the intelligence professionals to take care of business with limited congressional supervision. The House and the Senate maintained small oversight subcommittees on the Armed Services and Appropriations committees, but they met infrequently and the questioning was typically brief, if not perfunctory. One of the overseers, Leverett Saltonstall (D-MA), said on the floor of the Senate in 1956 that he was hesitant to “obtain information which I personally would rather not have, unless it was essential for me as a member of Congress to have it …” (Holt 1995, 211).

Intelligence has enjoyed a special dispensation since the days of the American Revolution (Knott 1996). The sense was that secret operations were too sensitive to be treated as normal government activities. The intelligence agencies would have to be kept apart; whether fighting Barbary pirates in the early days or Communists during the Cold War, the nation would have to rely on the good intentions and sound judgment of its spymasters and professional intelligence officers.

The results of this hands-off approach to intelligence supervision are probed here, using the methodologies of
archival research, interviews with government officials, and participant observation as a scholar-in-residence on Capitol Hill. Lord Acton’s venerable aphorism provides a working hypothesis: “Power corrupts and absolute power corrupts absolutely.” To which he might have added, “especially secret power.”

An Awakening

In 1974, a pivotal year in American politics, the nation had just withdrawn from the war in Vietnam and the ensuing Watergate scandal produced the first-ever resignation of a president, Richard M. Nixon. It was a time of great turmoil and Americans’ confidence in their institutions of government began to plummet. Coming on top of these jarring experiences, the New York Times accused the CIA of spying at home.

In December, the newspaper’s allegations produced a firestorm of public outrage (Colby 1976). Congressional offices received thousands of letters from citizens across the country. “Watergate might only be a prelude” to an even deeper assault on democracy, worried a constituent from Minnesota—a common theme in these mailings (Mondale 1975). A feeling of anger and dismay spread through Congress. “To whom are the intelligence agencies responsible,” the fiery orator John Pastore (D-RI) demanded to know as he introduced a resolution calling for an investigation. On January 21, 1975, senators voted overwhelmingly in support of the resolution (Johnson 1985). The House launched its own inquiry as well, and, not to be left behind, so did the White House under the leadership of President Gerald R. Ford (Smist 1994). If the Orwellian charges were true, something had to be done.

The formal name of the investigative panel created by the Senate was the Special Select Committee to Investigate Intelligence Activities, known less formally as the Select Committee on Intelligence or simply the Church Committee, after its chairman Frank Church (D-ID), with whom I served as a special assistant during the 16-month inquiry. A veteran of the Senate (elected at age 32, almost two decades earlier) and an expert on foreign affairs, Church was drawn chiefly to the accusation in the Times that dealt with CIA excesses overseas. Most of the others on the 11-member panel were more concerned about the charges of domestic spying, particularly the next-ranking Democrat Walter F. Mondale of Minnesota. Church asked him to lead a special subcommittee looking into this aspect of the committee’s investigation. The four additional Democrats on the committee were Philip Hart of Michigan, Walter “Dee” Huddleston of Kentucky, Robert Morgan of North Carolina, and Gary Hart of Colorado. The Republican members included John Tower of Texas, Howard Baker of Tennessee, Barry Goldwater of Arizona, Charles Mathias of Maryland, and Richard Schweiker of Pennsylvania.

The charges of intelligence abuse came as a shock to lawmakers. This is not to say they were unaware of problems that had cropped up in the intelligence community from time to time. Earlier reports had surfaced that the FBI kept extensive data banks on U.S. citizens, for example, and rumors were rife in the nation’s capital about the personal files on government officials kept by FBI director J. Edgar Hoover, used to “encourage” their support of his programs and budgets (Ungar 1975). Yet, despite occasional revelations about intelligence improprieties (and dismay over the CIA’s disastrous Bay of Pigs operation in 1961), no efforts toward reform had managed to gain the support of a majority in either chamber of Congress. Certainly none of the members of Congress serving in 1974 had ever suggested that America’s secret agencies might be engaged in widespread spying against the very people they had sworn to protect (although in 1947, a few of their predecessors had expressed fears about this possibility when Congress passed the CIA’s founding statute).

The paths of spies and lawmakers had seldom crossed. The FBI enjoyed the most frequent presence on Capitol Hill, having learned early the skills of legislative lobbying. Its officers came across as dedicated, hardworking public servants engaged in catching bank robbers, white-collar criminals, and Soviet spies. The drumbeat message from the FBI was straightforward: Its legitimate law enforcement and counterintelligence duties helped keep thugs, terrorists, and foreign agents at bay and deserved the approbation of the American people (Kessler 2002).

Moreover, lawmakers comforted themselves with the thought that both chambers had intelligence oversight subcommittees within the jurisdictions of the Armed Services and Appropriations committees. These panels were supposed to monitor the nation’s intelligence activities on behalf of Congress, freeing the vast majority of lawmakers from concern—and culpability (Barrett 1998). Hence, when the allegations of abuse came to light in 1974, the public and their representatives in Washington were taken aback.

Mandate for Reform

The scope of the Church Committee investigation was staggering. The Senate Watergate Committee had taken over a year to examine just that single event; during the next eight months, Congress expected the Church Committee to probe a multitude of alleged intelligence abuses that had taken place over the past quarter-century. Members of the committee would eventually have to seek an additional eight-month extension to complete their work. As the committee started up, it confronted one frustration...
after another, for the executive branch did its best to slow the pace of the inquiry. Compliance with the committee’s
document requests would take time, the White House ar-
gued; the committee would have to be patient. It seemed
like the same old stonewalling that had plagued the Senate
during its Watergate inquiry.

Slowly, however, the Church Committee managed to
uncover revealing documents during the summer of 1975
and, at last, was prepared to hold public hearings in Sep-
ember. The initial focus was a master spy plan prepared
for President Nixon by a young White House aide from
Indiana by the name of Tom Charles Huston. Despite laws
to the contrary (not to mention the First Amendment), the
so-called Huston Plan recommended using the nation’s
secret agencies to spy on Vietnam War dissenters. Huston
and the intelligence chiefs who signed on to the plan, in-
cluding DCI Richard Helms and FBI director Hoover, por-
trayed the United States as a nation under siege by student
radicals. The document revealed, as Mondale observed
during the hearings (U.S. Congress 1975), an “enormous,
unrestricted paranoid fear about the American people.”

The executive branch had concluded, wrongly, that the
youthful dissenters were agents of Moscow. As a result, the
United States would have to move outside the frame-
work of the Constitution and the law; the legal system
had become too confining in the struggle against the So-
viet Union, itself unrestrained by a Bill of Rights. The
enemy was sinister and lawless, so the United States would
have to become that way, too. Fire would have to be fought
with fire. Yet, as Huston conceded in testimony before the
committee (U.S. Congress 1975), his spy plan raised the
risk that the secret agencies would “move from the kid
with a bomb to the kid with a picket sign, and from the kid
with the picket sign to the kid with the bumper sticker
of the opposing candidate. And you just keep going down
the line.”

The committee’s chief counsel, Frederick A.O. Schwarz,
Jr. (grandson of the toy manufacturer) saw this chilling
decision as the most important insight to emerge from the
inquiry. “Government,” he concluded, “is going—in-
evitably and necessarily, I submit—to keep on going down
that line, once it departs from suspected violation of the
law as the only legitimate ground to investigate Ameri-
cans” (Schwarz 2000).

The Huston Plan was just the first of many jolts to the
committee as it opened a Pandora’s box of wrongdoing.
One abuse after another came tumbling out as lawmakers
and staff investigators shined a light into the hidden re-
cesses of government (U.S. Congress 1976). Looking over
the shoulder of the Church Committee, the American pub-
lic discovered:

- The FBI had created files on more than one million
  Americans and carried out more than 500,000 investi-
gations of “subversives” during 1960–74, without a
  single court conviction.
- National Security Agency computers had monitored ev-
  ery cable sent to or received from overseas by Ameri-
cans from 1947–75.
- The Internal Revenue Service had allowed tax
  information to be misused by intelligence agencies for
  political purposes.
- FBI agents had conducted a campaign to incite violence
  among African Americans.
- An FBI counterintelligence program (Cointelpro) had
  harassed civil rights activists and Vietnam War dissidents
  in an attempt to fray and often break apart family and
  friendship ties.

Cointelpro

Senators on the Church Committee found Cointelpro
deply troubling. With its spying at home (Operation
CHAOSS), the CIA had acted in a manner inconsistent with
American laws and values; but Cointelpro stunned law-
makers, for it went beyond even domestic spying. Inter-
nal FBI documents revealed that during 1956–71 the bu-
reau had carried out smear campaigns against individuals
and groups across the country, simply because they had
expressed opposition to the war in Vietnam, criticized the
slow pace of the civil rights movement, or (quite the op-
posite) advocated racial segregation. The attacks were di-
rected against people in all walks of life and various po-
itical persuasions; the expansive hatred of the bureau’s
leaders embraced black leaders and white supremacists
alike, with critics of the war in Vietnam thrown in for
good measure. As Mondale (2000) recalled, “no meeting
was too small, no group too insignificant” to escape the
FBI’s attention.

Among the thousands of Cointelpro victims was Dr.
Anatol Rapoport, a gifted social scientist at the University
of Michigan. He had attracted the FBI’s attention because
of his criticism of the war in Indochina and his “suspi-
cious” origins (he had been born in Russia shortly before
his parents immigrated to America early in the twentieth
century). The FBI’s agent-in-charge for the Ann Arbor area,
responding to top secret directives from bureau headquar-
ters, set out to “neutralize” Professor Rapoport—a term
used by the FBI to mean the harassment of an individual
as a means for curbing his or her dissent. The bureau mailed
anonymous letters to senior administrators at the univer-
sity, as well as to prominent citizens in Ann Arbor and
throughout the state, claiming without a shred of evidence
that Rapoport was, if not a Communist, then at least an
apologist for Communism and a troublemaker. The letters
were typically signed “a concerned citizen” or “a concerned
taxpayer.”
The FBI also placed informants in Rapoport’s classrooms to report on his “subversive” activities. He was to be embarrassed, discredited, and spied upon in whatever imaginative ways the FBI’s special agent could devise. These pressures, whose underlying source Rapoport never comprehended (Rapoport 1975), eventually led him to resign from the University of Michigan and take up a faculty post at the University of Toronto. The FBI had won. Although he remained a critic of the war in Vietnam, Cointelpro had damaged Rapoport’s career, drained him emotionally, strained his family and professional ties, and drove him from this country.

White supremacists also failed to fit into Hoover’s procrustean bed of conformity. The FBI sent another of its poisonous letters, this time written in Southern slang, to a wife of a Ku Klux Klan member, intimating that her husband was having an affair with another woman. The Klan, the women’s liberation movement, socialists, the New Left, antiwar and civil right activists—all became enemies of the Republic whom the FBI set out secretly to destroy (U.S. Congress 1976). In the Twin Cities, an FBI agent provocateur encouraged striking taxi drivers to construct a bomb for use in their battle against local teamsters; in California, a bureau office boasted in a memorandum to headquarters, “Shootings, beatings, and a high degree of unrest continues to prevail in the ghetto area of southeast San Diego. Although no specific counterintelligence action can be credited with contributing to this overall situation, it is felt that a substantial amount of the unrest is directly attributable to this program.”

One day in the middle of the committee’s inquiry, a staff aide came across Hoover’s personal and confidential files at the FBI headquarters in Washington, DC (Gittenstein 2000). Most of the files had been destroyed by the director’s assistant, Johnny Moore, who had started burning the papers in reverse alphabetical order after Hoover died. Moore had gotten to C before being discovered and stopped by bureau officials. In B was a file labeled “Black Bag Jobs.” It contained documents that proved Hoover had wiretapped Dr. Martin Luther King, Jr., without the benefit of a court order. When the Church Committee investigator presented lawmakers with this and related papers, even the more skeptical among them began to realize: “My God, Hoover really did these things!”

Soft-spoken, bearded Philip Hart was one of the most influential members of the committee (one of the Senate’s three office buildings is now named after him). His struggle with cancer prevented him from attending most committee meetings, but he found the strength to come to the opening hearing on the FBI. Hundreds of people filled the ornate Senate Caucus Room, site of the famous investigations into the sinking of the Titanic, the Pearl Harbor attack, Joseph McCarthy’s witch hunt, and the Watergate scandal. With his frail body bent over the committee bench, Hart listened intently to testimony from witnesses about Cointelpro. When it came time for him to speak, the cavernous hall fell silent as reporters and tourists strained to hear his weakened voice. He recalled that he had been skeptical when his own family of political activists had complained the FBI was trying to discredit opposition to the war in Vietnam. With his words cracking in emotion, Hart conceded they had been right all along; he had been wrong to defend the bureau. Not a soul stirred in the Caucus Room as he continued: “As a result of my superior wisdom in high office, I assured them they are on pot—it just wasn’t true. [The FBI] wouldn’t do it. What you have described is a series of illegal actions intended to deny certain citizens their first amendment rights, just like my children said.” It was the most poignant moment in the committee’s inquiry.

Targeting Reverend King

Lawmakers were not apt to forget other key FBI documents unearthed by the committee. The most shocking to the committee’s members was an anonymous letter written by the bureau, accompanied by a tape recording. As King traveled around the country, FBI agents had followed him and placed listening devices in his hotel room, recording compromising romantic liaisons. The bureau then mailed the letter and tape to King in 1964, 34 days before he was to receive the Nobel Peace Prize. In a ploy interpreted as an attempt by the FBI to push King into taking his own life, the letter read (U.S. Congress 1976): “King, there is only one thing left for you to do. You know what it is. You have just 34 days in which to do it. (The exact number has been selected for a specific reason.) It has a definite practical significance. You are done. There is but one way out for you. You better take it before your filthy, abnormal fraudulent self is bared to the nation.” A month later, the FBI sent a copy of the tape recordings to Mrs. King, who joined her husband in denouncing the blackmail attempt.

The goal of wrecking the civil rights movement stood at the heart of Cointelpro, and the efforts to ruin Reverend King were relentless. All the elements of the bureau’s dark side came together as it directed its full surveillance powers against him. In tandem with the blackmail attempt, the FBI initiated whispering campaigns to undermine the moral authority of the civil rights leader and sent anonymous letters to newspapers questioning his patriotism. The purpose, according to an FBI document, was to knock King “off his pedestal” (U.S. Congress 1976). Like Professor Rapoport, he would be “neutralized.” Hoover pressured his subordinates to either rewrite their field reports on King, falsely labeling him as the pawn of a Soviet agent—or else lose their jobs.
In 1964, the FBI bugged King’s hotel suite at the Democratic National Convention, along with rooms occupied by delegates of the Mississippi Freedom Democratic Party, using this information to disrupt civil rights activists at the convention. Further, the bureau blocked King from receiving honorary degrees, tried unsuccessfully to keep him from meeting with the Pope, planted an attractive female agent provocateur on his staff, and supplied friendly reporters with a stream of prurient stories about his private life (U.S. Congress 1976).

The FBI continued to harass King until his final days. Committee investigators assigned to examine the case brooded darkly about the possibility of a bureau set up to end the life of the civil rights leader. They wondered if, on a fateful trip to Memphis, King might have been ended by a fateful trip to Memphis. King might have been encouraged by FBI media leaks to abandon plans to stay in a white-owned hotel and move instead to the less secure, black-owned Lorraine Hotel. The committee never found any evidence to support this theory, but close associates of the slain civil rights activist continue to harbor suspicions about FBI and local law enforcement complicity in King’s assassination (Pepper 2003). Andrew Young, for example, points to the quick removal of potential evidence from the murder scene, even the cutting down of bushes across the street from the Lorraine near the area where the fatal shots were fired (Young 2000). After King’s death, when lawmakers began to consider whether his birthday should be made a national holiday, the FBI developed plans to brief selected members of Congress on how to stop the proposal.

During hearings into the King case, Senator Mondale asked the committee’s chief counsel, Frederick A.O. Schwarz, “Was there any evidence at any time that [the FBI] was suspicious that [Dr. King] was about to or had committed a crime?” The answer was no. Mondale asked further, “Was he ever charged with fomenting violence? Did he ever participate in violence?” Again, the answer was no. Mondale considered King the nation’s greatest civil rights hero, an apostle of nonviolence at a time in American history when there were tremendous pressures to use violence. King was a man of the cloth, acting from a deep sense of conviction—only to be treated by the FBI as a common criminal. “There is nothing in this case that distinguishes that particular action from what the KGB does with dissenters in that country [the Soviet Union],” Mondale said in disgust during a committee hearing (U.S. Congress 1976). He concluded, “I think it is a road map to the destruction of American democracy.”

Schwarz (2000) remembers being shocked by the attacks on King: “Here was a peaceful civil rights leader whom I admired as much as anybody in our history, and the FBI was trying to get him to commit suicide. The bureau called the Southern Christian Leadership Conference a black hate organization. The words were all upside down.” When the attorney general in the Ford administration, Edward H. Levi, former dean of the law school at the University of Chicago, came before the Church Committee, Mondale—who had become the committee’s leading interrogator on matters of domestic intelligence—asked him what he intended to do about cleaning up the FBI mess. The attorney general’s answers were far from what committee members, most of whom had gone to law school and two of whom (Mondale and Morgan) had served as state attorneys general, expected to hear from the nation’s chief law enforcement officer and a noted constitutional scholar. Levi sought unprecedented authority for the FBI to act against a group or individual before a crime was committed—the same slippery slope that had led to COINTELPRO in the first place. He seemed to have forgotten that the job of the FBI was to focus on actual or suspected violations of the law, not just the expression of ideas. Levi had assumed the role of the bureau’s protector, while Mondale had taken on the role of the committee’s leading defender of civil liberties. A collision was inevitable.

Mondale suggested to the attorney general that his guidelines were “vaguely defined” and that, if they were not strengthened and codified into law, they “would be swept away as quickly as a sand castle is overrun by a hurricane” (U.S. Congress 1976). The temperature in the Senate Caucus Room rose as the two men confronted each other across the green-baize hearing table. When Levi resorted to an evasive answer, Mondale stared at him and said, “Well, I think that kind of arrogance is why we have trouble between the executive and the legislative branch.” Levi replied, “I apologize to Senator Mondale if I appeared arrogant. I thought that someone else was appearing arrogant, but I apologize.”

Mondale had put the attorney general on notice: The committee was not going to be a pushover; it would strenuously defend the liberties of American citizens. Despite this public confrontation, Mondale and Levi soon met privately and placed behind them any bad feelings, agreeing to work together in crafting FBI guidelines that would be acceptable to both the committee and the Justice Department. It was an important turning point in the investigation which led to constructive negotiations between the branches over proper guidelines for bureau activities.

A Widening Gyre of Abuse

As the investigation unfolded, the Church Committee discovered just how far the violations of public trust had extended to the CIA and military intelligence units. For instance,

- The CIA had opened mail to and from selected American citizens, generating 1.5 million names stored in the agency’s computer bank (Operation CHAOS). No one
was immune—not Leonard Bernstein, not John Steinbeck, not John Steinbeck, not John Steinbeck, not John Steinbeck, not John Steinbeck, not John Steinbeck. Even Richard Nixon had made the CIA’s watch list.

- Army intelligence units had conducted investigations against 100,000 U.S. citizens during the Vietnam War era.
- The CIA had engaged in drug experiments against unsuspecting subjects, two of whom died from the side effects.
- The CIA had manipulated elections even in democratic regimes such as Chile.
- The CIA had infiltrated religious, media, and academic organizations inside the United States.
- The CIA had plotted failed assassination attempts against Fidel Castro of Cuba and Patrice Lumumba, among other foreign leaders.

The CIA’s assassination plots and drug experiments were as unacceptable to the Church Committee as the FBI’s Cointelpro operations had been. The CIA had even resorted to the recruitment of Mafia mobsters to assist in the plots against Castro.

In Joseph Conrad’s *Heart of Darkness*, the protagonist Marlow discovers in the jungles of central Africa the savagery that has befallen his once-civilized companion, Mr. Kurtz. Isolated in a primitive setting, Kurtz succumbs to a steady moral deterioration. In the last hours of his life, he peers into his own soul and, confronting the decay, cries out in despair: “The horror! The horror!” The allegory suited the secret agencies. Removed from the rest of democratic society, they had descended into a primordial underworld, using methods deemed necessary to combat foreign enemies, then turning these dark arts against citizens at home whose only crime had been to express beliefs that the White House or the intelligence chiefs found objectionable. In this crusade, the secret agencies had adopted some of the tactics of the repressive regimes they opposed. To argue that the United States had to abandon liberty in the name of security was to say that the nation had to become more like its enemies in order to protect itself from them—a pernicious doctrine that the committee rejected out of hand.

How could the intelligence community have strayed so far from its rightful duties and into this heart of darkness? The answer stems partly from the paranoia engendered by the Cold War, even though—as William Sullivan (1975), the top FBI agent in charge of Cointelpro, acknowledged—there were not enough Communists in the United States to carry the smallest precinct in New Hampshire, let alone take over the country. Sullivan told the committee the secret agencies had been caught up in an anti-Communist tide that swept aside safeguards against the misuse of power (just as, today, a war against global terrorism in the wake of the September 11 attacks holds the danger of eroding civil liberties at home, especially for law-abiding Arab Americans). As Sullivan recalled, during the FBI’s operations against Reverend King, “No holds were barred. We have used [similar] techniques against Soviet agents. [The same methods were] brought home against any organization against which we were targeted. We did not differentiate. This is a rough, tough business” (U.S. Congress 1976).

He added that never once had he heard a discussion about the legality or constitutionality of any aspect of the FBI’s internal security program. His explanation: “We were just naturally pragmatic.”

During the committee’s public hearings on the National Security Agency and its interception of cables sent to and from U.S. citizens (Operation SHAMROCK), a revealing exchange took place between Senator Mondale and the agency’s deputy director, Benson Buffham (U.S. Congress 1975):

Mondale: Were you concerned about its legality?
Buffham: Legality?
Mondale: Whether it was legal.
Buffham: In what sense? Whether that would have been a legal thing to do?
Mondale: Yes.
Buffham: That particular aspect didn’t enter into the discussion.
Mondale: I was asking you if you were concerned about whether that would be legal and proper.
Buffham: We didn’t consider it at the time, no.

It was a response echoed by other agency representatives during the hearings. One of the committee members asked Clark Clifford, who had helped to draft the charter for the CIA in 1947 and served as secretary of defense during the Johnson administration, about constitutional protections against abuses. He replied, “Well, that was a different time when we could afford that.”

Criticism of the intelligence agencies was widely considered unpatriotic. They had to be given broad discretionary powers if they were to be successful in subduing America’s adversaries at home and abroad. As a consequence, the secret agencies took on the features of a political police, growing increasingly autonomous, insulated, and aggressive. As William W. Keller has written (1989, 154), the intelligence community became “a state within the state, which would not be bound by the constraints of the constitutional order.”

Responsibility for the abuses did not fall on the intelligence community alone. Presidents of both parties used the secret agencies to spy on political adversaries. Lawmakers were derelict, as well, for permitting the growth of an inadequately supervised security state. Intelligence scholar Harry Howe Ransom (1984) draws the proper conclusion: Congress had become “a sleeping watchdog.”
James R. Schlesinger, director of central intelligence in 1973, remembers his initial briefing to the small Senate oversight subcommittee of that day (1994). As he began his briefing, John Stennis (D-MS) interrupted: “No, no my boy, don’t tell me. Just go ahead and do it, but I don’t want to know.”

William Sullivan of the FBI testified about another influence that contributed to the lawlessness that gripped the intelligence agencies (U.S. Congress 1976). “During World War Two, we had grown up topsy-turvy,” he said, “when legal matters were secondary to achieving victory against the Nazis. This mentality carried over easily into the new war against the communists.” During the course of its inquiry, the committee came across a telling top secret document that had been prepared for President Dwight D. Eisenhower (U.S. Congress 1976, 9). A key passage advised that, in the war against Communism, “…hitherto acceptable norms of human conduct do not apply. If the U.S. is to survive, long-standing American concepts of ‘fair play’ must be reconsidered … we must learn to subvert, sabotage, and destroy our enemies by more clear, more sophisticated and more effective methods than those used against us.” The underlying philosophy reminded Schwarz (2000), the committee counsel, of Macbeth’s words: Inevitably, the invention returns home “to plague the inventor.”

The FBI’s skillful lobbying of lawmakers further warded off serious oversight. So did its clever promotion of a favorable public relations image, such as the television show The FBI Story, which starred the dashing actor Efrem Zimbalist, Jr. The FBI censored the program’s scripts, and CBS beamed the program into millions of living rooms each week during the 1960s. Self-promotion helped the bureau gain remarkable popularity and independence, free from congressional probes and detailed laws to guide its activities (Ungar 1975).

Hannah Arendt’s ever-lingering “banality of evil” (1973) entered the picture, too. When asked by the committee how he could have brought himself to participate in the Cointelpro operations, William Sullivan replied (U.S. Congress 1976), “I was so inured and accustomed to any damn thing I was told to do, I just carried it out and kept my resentment to myself. I was married and trying to buy a house with a big mortgage and raise a family.”

The Church Committee came to the conclusion that the overwhelming majority of the men and women in the nation’s intelligence agencies had consistently carried out their assignments with integrity and devotion to the law and constitutional principles. Some had given their lives in the defense of liberty. America owed its freedom partly to their dedication in the struggle against those who wished to harm the United States. Yet some intelligence officers had clearly overstepped the boundaries of law and propriety, and the committee felt impelled to adopt measures that would help protect citizens against future abuses.

Steps Toward Reform

The initial congressional response to the CIA’s domestic spying was to pass the Hughes-Ryan Act on December 31, 1974 (22 U.S.C. 2422). This statute, which marked the beginning of a new era of intelligence accountability, required the president to review and authorize (in a “finding”) every important covert CIA action, then report to Congress on those he had approved. Prior to the Hughes-Ryan law, pinning down responsibility for covert action was, Mondale observed during the Church Committee inquiry, “like nailing jello to a wall.” With this statute in place, there would be no more plausible denial, no more vanishing paper trails. It was the first attempt since the CIA’s creation to place meaningful limits on its activities.

Congress then began its formal investigations, with probes by the Church Committee in the Senate and the Pike Committee in the House. The House committee was led by Otis Pike (D-NY) and concentrated on the quality of intelligence reporting, whereas the Church Committee focused on charges of abuse. Along with the inquiry conducted by the White House (the Rockefeller Commission, led by Vice President Nelson Rockefeller), the congressional committees did much to educate the American people about the importance of more meaningful intelligence supervision.

In May 1976, the Church Committee presented 96 proposals for reform of domestic intelligence alone, many of which were adopted by Congress. The most significant, which affected both domestic and foreign intelligence, was the creation of a permanent Senate Select Committee on Intelligence. As Mondale noted at the time (1976), “If there is one lesson that our Committee felt above all must be learned from our study of the abuses which have been reported, it has been the crucial necessity of establishing a system of congressional oversight.” The Senate put into place a potentially effective standing committee, equipped with a large and experienced professional staff, devoted to monitoring the secret agencies day by day and reviewing their programs and budgets with a fine-tooth comb.

The creation of an intelligence oversight committee in the Senate was not an easy task, as it was opposed by the White House, the intelligence agencies, and even a few members of the Church Committee on the Republican side (Tower, Goldwater, and Baker). In floor debate on the proposal, Church and Mondale stressed the necessity of providing the new committee with annual budget authorization, realizing that without the power of the purse as leverage over the intelligence community, no form of accountability would succeed. Opponents introduced a num-
have broadened to investigate charges of misconduct across
president and the attorney general.

duct, reporting their findings and conclusions to the vice

mestic intelligence matters. In turn, Mondale and the new

op to oversee intelligence activities (Mondale 2000; Bell

mendation that the CIA clarify and sharply limit its ties to
U.S. journalists. The committee proposed a single eight-
year term limit on the directorship of the FBI; no more
imperial czars like Hoover, who had served an incredible
48 years in that capacity. Congress eventually settled on a
10-year term. The committee also recommended that the
Office of Professional Responsibility (OPR), established
in reaction to the Watergate scandal, be given legal status,
thereby providing it firmer footing to probe allegations of
abuse inside the intelligence agencies. During the Carter
administration, the president bestowed upon Vice Presi-
dent Walter Mondale extensive responsibilities over intel-
ligence issues, especially with respect to the FBI and do-

cial inertia

The Legacy of the Church Committee

Soon after the investigation, historian Henry Steele
Commager observed that the indifference of the intelli-
gence agencies to constitutional restraint was “perhaps the
most threatening of all the evidence that [emerged] from
the findings of the Church Committee.” (1976, 32). The
inquiry was able to focus citizens’ awareness on this threat,
creating a foundation of public support indispensable for
the reform measures subsequently adopted by Congress
and the executive branch. Legislators laid out the facts for
the American people—a difficult and important duty in
itself—about the extent of lawlessness that had overtaken
the secret agencies. The committee was unable to plumb
the depths of every intelligence abuse; it did not have
enough time. Rather, it laid out key findings that pointed
to a pattern of wrongdoing without trying to probe every
specific allegation. This public airing proved thorough
enough to bring about a sea change in attitudes throughout
the intelligence community.

The committee’s central conclusion was clear and im-
portant: The law works. In every case where the secret
agencies had violated the law, the committee demonstrated
how U.S. security objectives could have been achieved

Congressional Supervision of America’s Secret Agencies

Discussion and Conclusion

The committee made it clear as well that the principle of accountability was valid even with respect to the hidden side of government—indeed, there most especially. The Senate and House intelligence oversight committees would now stand guard as watchmen to America’s civil liberties, replacing the small and ineffectual subcommittees the nation had relied on before, only to see them fail. Today, as the nation’s spymasters plan their secret operations, they must take into account the likely reactions of two full committees of elected representatives. This new relationship has strengthened the intelligence community by better defining its limits and responsibilities and by tying the secret agencies more closely to the values and beliefs of the American people and their surrogates in Congress. The resulting higher level of professionalism among the intelligence agencies has helped to restore public confidence and respect in their activities, a primary objective of the Church Committee.

The committee conveyed to the American people that the Senate would stand up for their constitutional rights. “We can’t slide back into the days of J. Edgar Hoover”—that was the message delivered by the Church Committee through its promulgation of guidelines and recommendations,” recalls John Elliff, the committee’s top staff aide for the FBI side of the inquiry (2000). William E. Colby, director of central intelligence during the investigation, wrote afterward that the Church Committee had shed light on the boundaries “within which [the intelligence community] should, and should not, operate” (1976, 11). Likewise, the current DCI, George Tenet, himself a former staff director of the Senate Select Committee on Intelligence, has stated that the new oversight procedures represent “…our most vital and direct link to the American people—a source of strength that separates us from all other countries of the world” (1997).

The importance of establishing intelligence oversight committees in the Senate and the House cannot be overemphasized. The protection of freedom requires daily attention; someone has to be continuously on guard. That someone in the world of intelligence now includes two permanent, well-staffed committees that concentrate exclusively on intelligence activities, not (as earlier) small, feckless subcommittees that occasionally reviewed the nation’s secret operations as an adjunct to their principal duties. Robert M. Gates, a career intelligence officer and DCI under the first President Bush, has come to this conclusion about the new era of intelligence oversight (1997, 559): “[S]ome awfully crazy schemes might well have been approved had everyone present not known and expected hard questions, debate, and criticism from the Hill. And when, on a few occasions, Congress was kept in the dark, and such schemes did proceed, it was nearly always to the lasting regret of the presidents involved.”

Here was the most vital result of the Church Committee’s work: the establishment of safeguards to ensure that lawmakers are able to check abuses by the secret agencies, not just the more open agencies of government. This is not to say the Church Committee created a fool-proof system of intelligence accountability. The Iran-Contra affair of 1986–87 served as a reminder that even robust legislative safeguards are no guarantee against the misuse of power by determined conspirators in the executive branch (Cohen and Mitchell 1988). That scandal led to a further tightening of oversight procedures, including the creation of a CIA Office of Inspector General that is directly answerable to Congress (Kaiser 1994; Currie 1998).

The best assurance against future abuse lies, as the ancient philosophers realized, in the selection of individuals of the highest integrity for positions of power. Then, lawmakers and their staff on the oversight committees must maintain close watch over intelligence budgets and programs, posing detailed questions in hearings and probing fearlessly into any activities that seem untoward. Outside the executive branch, only Congress has the authority to insist on access to intelligence documents and testimony; if elected representatives lapse into complacency, the secret agencies will again drift toward autonomy and the arrogance that isolation breeds.

Even now, there are signs that some have failed to learn this lesson of American democracy. A senior official from the Association of Retired Intelligence Officers opined in the wake of Iran-Contra that those who had lied to legislators during that affair were right to have done so because sensitive intelligence operations are none of Congress’s business (cited in Turner 1991). In 1994, Senate overseers learned that the National Reconnaissance Office (a component of the intelligence community that builds and manages spy satellites) had run up $159 million in cost overruns for the construction of its new headquarters in Virginia without properly informing lawmakers (New York Times 1996a). And in 1995, the CIA failed to report, as required by law, its questionable ties to a suspected murderer in the Guatemalan military (New York Times 1996b). Just in the past two years, DCI Tenet resisted a probe by lawmakers on a special Senate–House Joint Committee of Intelligence into the failure of the intelligence community to warn the
nation of the September 11 attacks (Lewis 2002). The second Bush White House has stonewalled efforts by a commission to further investigate this subject and related weaknesses in U.S. security (Johnson 2003).

This backsliding emphasizes the need for renewed attention to intelligence accountability. Still, these episodes notwithstanding, the safeguards set up by the Church Committee and the Ford administration in 1976 have endured and, on most occasions, they have brought greater sobriety to the conduct of intelligence operations at home and abroad. Someone beyond the walls of the secret agencies is now steadily watching their activities; would-be violators of the public trust know they may be caught—a vital check on abuse.

This nation must have strong and effective intelligence agencies; America’s security depends on it. Yet that power has to remain within the framework of the Constitution, not relegated to some dark outside realm. This is all the more true in an age in which the methods of spying are far more sophisticated than in the era of J. Edgar Hoover. Breaches of faith will occur again; such is the nature of the human condition. It is imperative, however, that responsible officials remain ever-vigilant in their protection of lawful political activities, ensuring that citizens do not become the target of secret intimidation by the intelligence community. The constitutional right to free expression must remain the linchpin of American democracy.

With the safeguards established in 1976, citizens of the United States are far less likely to suffer abuse at the hands of the secret agencies than during the earlier years of benign neglect. The effectiveness of the safeguards will continue to depend on lawmakers’ commitment to carry out their duties of accountability with fresh resolve, with a willingness to engage in day-to-day “police patrolling,” and with a determination to preserve liberty at home even in the face of global terrorism.

Acknowledgments

The author would like to express his appreciation to several individuals who consented to be interviewed for this piece, especially former Vice President Walter Mondale and New York City attorney Frederick A.O. Schwarz, Jr., who devoted considerable time to the project; historian Michael Lerner for his assistance with the interviews; Leena S. Johnson and the anonymous reviewers of this journal for their valuable editorial suggestions; Doreen E. Clifford for her guidance during the production phase of the article; and Professor Harry Howe Ransom of Vanderbilt University for his steady encouragement in this field of study.

References


Mondale, Walter F. 1975. Personal archives (Church Committee), Minneapolis, MN.

———. 1976. Personal archives (Church Committee), Minneapolis, MN.

———. 2000. Interview with the author, February 17, Minneapolis, MN.


Priest, Dana. 2003. Remarks to the Panel on Congress, Intelligence and Secrecy During War, Woodrow Wilson Center, May 9, Washington, DC.


Rapaport, Anatol. 1975. Interview with the author, September 21, Toronto.
